

THE
RIGHT of SUCCESSION
TO THE

Crown of *England*,

In the FAMILY of the

S T U A R T S,

Exclusive of

M A R Y Queen of S C O T S,

Learnedly Asserted and Defended

By Sir NICHOLAS BACON,

Lord-Keeper of the Great Seal;

AGAINST

Sir ANTHONY BROWN, &c.

Chief Justice of the Common-Pleas.

Faithfully published from the Original Manuscript,

By NATHANIEL BOOTHE, of *Grays-Inn*, Esq;

With his Prefatory Discourse and Dedication to the
Lord-Chancellor.

L O N D O N:

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8

PH
MVSEVM
BRITANNICVM

1. Discourse by Sir Anthony Brown on certain points touching the inheritance of the crown. Page 1. to 32.

2. The Answer & Argument of Sir Nicholas Bacon. 33. to the end.

Handwritten note: *Handwritten note: R. of the Crown of Engl. altered*

Handwritten note: *to be given as a mission by J. Hales*

Handwritten note: *1562*

Handwritten note: *also 1. Strapp*

Handwritten note: *Ann. A52.*

Handwritten note: *the former was written to maintain the authenticity & validity of the will of King Henry the 8th of the right of his younger sister the Queen Dowager of France's issue by the Brandon Duke of Suffolk under it to succeed to the Crown of Engl. in case of Queen Elizabeth's death without issue*

Handwritten note: *the latter was an answer to the former, denying the right of the house of Suffolk & asserting the right of Mary Queen of Scots.*

Handwritten note: *further investigation to ascertain, who really wrote the 2 pieces, seems necessary. T. H.*

Handwritten note: *which this answer was written to what circumstances it is at this day put in what manner it was written*



To the RIGHT HONOURABLE

T H O M A S

Earl of *MACCLESFIELD*,

Lord High-Chancellor of *Great-Britain*.

My LORD,



HE following Arguments were long since Penn'd by two very Learned Gentlemen of the Long Robe, *Sir Anthony Brown* sometime Lord Chief Justice of the *Common-Pleas*, and *Sir Nicholas Bacon* Lord Keeper of the Great-Seal, they have lain long by me in Manuscript, and so had continued, had not the persuation of a Right Reverend Prelate of our Church, whose Universal Learning has render'd him deservedly Conspicuous, and whose Opinion will always have a very great weight with me, prevail'd upon me to publish them purely to oblige the Curious. I shall not enter into the merit of these Arguments, but leave them to the Judicious in our Laws and Histories, only apprizing the Readers that they are faithfully Printed from the Originals, having not in the least deviated from the Autography and Stile of the Writers.

As your Lordship's great Learning, not only in our Laws, but in all polite Literature, have in a

The Dedication.

particular manner distinguisht you from the most Eminent in our Profession, and, in consequence of your great and true merit, advanced your Lordship to that high station, wherein we are daily witnesses of your consummate knowledge of our Laws, deep, clear, and piercing Judgment, and easy and impartial distribution of Justice, I cou'd not but be soon determin'd to whom to inscribe these Arguments, your Lordship having, as it were, a sort of right to them, considering the well-known Learning and eminent stations of these our Authors in the Courts of Justice in the Reigns of Queen *Mary* and the ever memorable Queen *Elizabeth*.

But I fear I trespass upon your Lordship's patience, and time, which the most momentous affairs of the Nation are destin'd to employ; that, therefore, your Lordship may long enjoy perfect and uninterrupted health for the sake of all those that wish well to our present most happy Establishment in Church and State, that you may be happy, very happy, in all that concerns your Noble Family, and may long preside on that Illustrious Seat which your Lordship adorns with so great Honour, Reputation, and Ability, is the very sincere and hearty wish of,

Gray's-Inn,
May, 1723.

My LORD,


Your Lordship's most humble,

most Obedient, and

most devoted Servant,

N. B.

THE PREFACE.

N this Treatise is most learnedly proved and defended, the Right of Succession to the Crown of England: And that Succession in the Royal Family of the then present possessor King James, exclusive of Queen Mary, the Popish Pretender, and likewise is manifestly made out by irresistible Arguments, That King Henry the 8th made no Will, as the Act of Parliament did direct: All which is the subject matter of Sir Nicholas Bacon's Defence, to the Argument of Sir Anthony Brown, Chief Justice of the Common-Pleas to the contrary, his abilities for such an undertaking, will shew it self by reading his Defence. Much about this time that this matter was disputed, Buchanan, the Scotch Historian, endeavour'd all he could to blemish the family of the Stuarts, and particularly the then Queen of Scots. His Character is thus set out by the Reverend Mr. Collier; But notwithstanding his great parts and learning, he hath wrote some Books, which in the opinion of some Authors, have tarnish'd his Character, particularly Camden, call'd his Book, de Jure Regni apud Scotos, A damn'd Dialogue; affirms it written at the Instance of the Earl of Murray,

*This
I am
very
sorry
for my
remarks
at the end.*

The PREFACE.

Murray, and that some passages concerning the precariousness of that Crown, are contrary to the credit of the Scottish History. This Book, together with his History, was prohibited and suppressed in the Reign of King James the first, as containing many things to be found fault withal, to be defaced and obliterated. Camden adds, That his Book, call'd The Detection, written against Mary Queen of Scots, was condemn'd of falshood by the Estates of the Realm of Scotland, and that his Pen was byass'd by the Earl of Murray's liberality, and his own partial Inclinations to that Noble Man: that he lamented his own insincerity before King James, for casting so many aspersions upon the Queen his Mother, and wished he might live long enough to make a publick retraction, and wipe out the Calumnies, though it were with his blood."

Sir Nicholas Bacon was of the Society of Grays-Inn, as does appear by the Coat of Arms being placed up in the Windows of Grays-Inn Hall, a compliment usual to Persons eminent in the profession of the law; and we esteem it a great honour to our Society, that Sir Nicholas Bacon, and his son Sir Francis Bacon, two of the literati of the Ages they liv'd in, were Members thereof. He was made Keeper of the Great Seal, 22. Decemb. 1559. The first year of Queen Elizabeth, Sir Anthony Brown, the Adversary in this Argument, the same year, was made a Judge in the Common-Pleas. In Camden's Elizabeth, speaking of Queen Elizabeth, the Author expresses himself thus: She being now twenty five years of age, and thought by experience

The P R E F A C E.

ence and adversity (two most effectual and powerful masters) had gathered wisdom above her age: The first proof whereof she gave in chusing her Councillors, and amongst the rest Sir Nicholas Bacon, to whom she committed the keeping of the Great Seal, the highest trust, seldom entrusted but with the person that does distinguish himself, in the endowments of his mind, with the most exalted abilities. He, amongst many others, now made choice of to serve her Majesty Queen Elizabeth, was in no place under Queen Mary.

2 The Character of Sir Nicholas Bacon, as given by Sir Robert Naunton; he says,

I Come to another of the Togati, Sir Nicholas Bacon, an arch-piece of wit and wisdom; He was a Gentleman, and a man of Law, and of great knowledg therein, whereby, together with his other parts of learning and dexterity he was promoted to be Keeper of the Great Seal; and being of kin to the Treasurer Burleigh, had also the help of his hand to bring him into the Queen's favour: He was abundantly factious, which took much with the Queen when it was suited with the season, as he was well able to judge of his times. He had a very quaint saying, and he used it often to good purpose; That he loved the jest well, but not the loss of his friend. He would say, that though he knew *Unusquisque suæ fortunæ faber*, was a true and good principle, yet the most in Number were those that marred themselves; but I will never forgive that man who loseth himself to be

The P R E F A C E.

be rid of his jest. He was father to that refined wit which since hath acted a disastrous part on the publick stage, and of late fate in his Father's room, as Lord-Chancellour. Those that lived in his age, and from whence I have taken this little Model of him, give him a lively character, and they decypher him for another Solon, and the Synon of those times, such a one as Oedipus was in dissolving of riddles. Doubtless he was an able instrument, and it was his commendation (that his head was the maw) for it was a great one, and therein he kept the wedge that entered the knotty pieces that came to the table. Sir Nicholas Bacon was created Lord-Keeper by patent; formerly those that were Keepers of the Seal, had no dignity nor authority annexed to their office; they did not bear causes, nor preside in the House of Lords, but were only to set their seals to such writs or patents as went in course; and so it was only put into the hands of a Keeper but for some short interval. But now Bacon was the first Lord-Keeper that had all the dignity and authority of the Lord-Chancellour conferred upon him, and his not being raised to that high title, perhaps flowed from his own modesty; for as he was one of the most learned, most pious, and wisest men of the Nation, so he retained in all his greatness a modesty equal to what the antient Greeks and Romans had carried with them to their highest advancement. On the Twenty Third of January 1559. being the day to which the Parliament was summoned, it was prorogued till the 25th, and then it was opened with

The PREFACE.

with a long speech of the Lord Bacon's, in which he laid before them the distracted estate of the Nation, both in matters of religion and the other miseries that the wars and the late calamities had brought upon them: All which he commended to their care. For Religion, the Queen desired they would consider of it without heat or partial affection, or using any reproachful terms of Papist, or Heretick; and that they would avoid the extreams of idolatry and superstition on the one hand, and contempt and irreligion on the other; and that they would examine matters without sophistical niceties, or too subtil speculations, and endeavour to settle things so as might bring the people to an uniformity and cordial agreement in them. As for the state of the Nation, he shewed the Queen's great unwillingness to lay new impositions on them; upon which he run out largely in her commendation, giving them all assurance that there was nothing she would endeavour more effectually, than the advancing of their prosperity, and the preserving their affections. He layd open the loss of Calais, with great reflections on those that were formerly in the Government; yet spoke of it as a thing which they could not at that time hope to recover; and layd before them the charge the Government must be at, and the necessities the Queen was in, adding, in her name, that she would desire no supply, but what they did freely and chearfully offer. Herein does this learned and judicious person speak for his royal mistress Queen ELIZABETH, and for the good of the Kingdom, both in Church and State. The Reformed Religion had been undercl an e-

The PREFACE.

clipse upward of five years in the reign of Queen Mary and King Philip, and had need of so skilful a pilot to steer his course aright. In the foregoing speech he shews himself the Author of the discourse which is now recommended to the world; and not only his abilities were wonderfully great, but likewise his station; for by being Keeper of the Great Seal, he had resort to the records of this Kingdom, and more especially to those that concern the inheritance of the Crown, where this pretended Will of King Henry the Eighth was to be found, which you will find when you read him over, where likewise are to be found some excellent and rich pieces of History.

He was a branch of the ancient Family of BACONS of Norfolk and Suffolk, but born at Chiselhurst in the County of Kent. He was bred at Bennet's-College in Cambridge; and having applied himself to the study of the common Law, he became Attorney of the Court of Wards; then was preferred to be Keeper of the Great Seal, in which he continued about Eighteen Years; he was not only a good Lawyer, but a Man of great wit and wisdom, and of deep reach into all sorts of affairs; he had a special memory to recollect all the circumstances of a business, and as great patience to debate and consider them; witness his usual saying, Let us stay a little, and we shall have done the sooner. In short, he understood the true interest of England, and promoted it to the utmost of his power. To secure his own, he made use of the policy of those times, viz. Great Alliance; he and Cecil married two sisters; Walsingham and Milway two more, Knowles, Essex, and Leicester

The PREFACE.

cester were also linked together. *As for greatness, Sir Nicholas never affected it, giving for his Motto, Mediocris firma; nor was he so much for a large as a good estate. His house at Gorhambury in Hertfordshire was convenient, but not at all stately; which made the Queen tell him, when she call'd there in her progress, That it was too little for his Lordship: To which he made this answer, No, Madam, but your Highness has made me too big for it. He was very corpulent in his old age, to which the Queen alluding, used to say, Sir Nicholas's soul lodgeth well. He died Ann. 1575. leaving two sons, Sir Nicholas, the first Baronet of England, and Sir Francis the Honour of his age and country.*

There being such a harmony in Sir Nicholas Bacon's defence, and the Act of Recognition of King JAMES the First, that transcribing the Act of Parliament is such a defeat of all those Authors that would disturb the noble Family of the STUARTS, and the succession of the Crown of Great Britain to them, and the illustrious Family that now enjoys it, that I need not say any more concerning it.

The TITLE of the ACT.

A most joyful and just Recognition of the immediate, lawful, and undoubted Succession, Descent, and Right of the Crown.

GREAT and manifold were the Benefits (most Dread and most Gracious Sovereign) wherewith Almighty God blessed this Kingdom and Nation by the happy Union and Conjun-

The PREFACE.

tion of the two noble Houses of *York* and *Lancaster*, thereby preserving this noble Realm, formerly torn, and almost wasted with long and miserable Dissention and bloody Civil War, but more inestimable and unspeakable Blessings are thereby poured upon us; because there is derived and grown from and out of that Union of those two Princely Families, a more famous and greater Union (or rather a re-uniting) of two mighty, famous and ancient Kingdoms (yet anciently but one) of *England* and *Scotland*, under one Imperial Crown, in your most Royal Person, who is lineally, rightfully, and lawfully descended of the Body of the most Excellent Lady, *Margaret*, eldest Daughter of the most renowned King *Henry* the Seventh, and the High and Noble Princess, Queen *Elizabeth*, his Wife, eldest Daughter of King *Edward* the Fourth; the said Lady *Margaret* being eldest Sister of King *Henry* the Eighth, Father of the High and Mighty Princess, of famous Memory, *Elizabeth*, late Queen of *England*. In consideration whereof, albeit we Your Majesty's loyal and faithful Subjects of all Estates and Degrees, with all possible and publick Joy and Acclamation, by open Proclamations within few Hours after the Decease of our late Sovereign Queen, acknowledging thereby, with one full Voice of Tongue and Heart, That Your Majesty was our only lawful and rightful Liege Lord and Sovereign, by our unspeakable and general Rejoycing and Applause at Your Majesty's most happy Inauguration and Coronation, by the affectionate Desire of infinite Numbers of us, of all Degrees, to see Your Royal Person, and by all possible outward Means have endeavoured

The PREFACE.

deavoured to make Demonstration of our Inward Love, Zeal, and Devotion to Your Most Excellent Majesty, our undoubtful, rightful, Leige Sovereign Lord and King; yet as we cannot do it too often, or enough, so there can be no Means or Way so fit, both to sacrifice our unfeigned and hearty Thanks to Almighty God for blessing us with a Sovereign adorned with the rarest Gifts of Mind and Body, in such admirable Peace and Quietness, and upon the Knees of our Hearts to agnize our most constant Faith, Obedience and Loyalty to Your Majesty and Your Royal Progeny, as in this High Court of Parliament, where all the whole Body of the Realm, and every particular Member thereof, either in Person or by Representation (upon their own Elections) are by the Laws of this Realm deemed to be personally present.

To the Acknowledgment whereof to your majesty, we are the more deeply bounden and obliged, as well in Regard of the extraordinary care and pains which with so great wisdom, knowledge, experience and dexterity, your majesty (since the Imperial Crown of this Realm descended to you) have taken for the Continuance and Establishment of the blessed Peace both of the Church of *England*, in the true and sincere Religion, and of the Common Wealth, by due and speedy Administration of Justice, as in Respect of the gracious Care and inward Affection which it pleased you, on the first Day of this Parliament, so lively to express by your own words, so full of high Wisdom, Learning, and Virtue, and so repleat with royal and thankful Acceptation of all our faithful and constant Endeavours,

The PREFACE.

deavours, which is, and ever will be, to our inestimable Consolation and Comfort. And goes on farther. And in a most humble and lowly Manner, do beseech your most Excellent Majesty, that (as a Memorial to all Posterities, amongst the Records of your High Court of Parliament for ever to indure, of our Loyalty, Obedience, and hearty and humble Affection) it may be published and declared in this High Court of Parliament, and enacted by the Authority of the same, that we (being bounden thereunto both by the Laws of God and Man) do recognize and acknowledge (and thereby express our unspeakable Joys) that immediately upon the Dissolution and Discease of *Elizabeth*, late Queen of *England*, the Imperial Crown of the Realm of *England*, and of all the Kingdoms, Dominions, and Rights belonging to the same, did, by inherent Birth-right, and lawful and undoubted succession, descend and come to your most Excellent Majesty, as being lineally, justly and lawfully, next and sole Heir of the Blood Royal of this Realm, as is aforesaid; and that by the Goodness of God Almighty, and lawful Right of Descent under one Imperial Crown Your Majesty is of the Realms and Kingdoms of *England*, *Scotland*, *France*, and *Ireland*, &c.

This Law does most fully make out the succession in the Royal Family of the then present possessor King James, exclusive of Qu en Mary the Popish Pretender,

as seems very intelligible, James's title as heir being derived through his mother Mary Queen of Scots.



A
DISCOURSE

Upon certain POINTS touching the
Inheritance of the Crown:

CONCEIVED BY

Sir Anthony Browne, Justice,

AND ANSWERED BY

*Sir Nicholas Bacon, Lord Chancellor of
ENGLAND:*

As hereafter followeth, &c.



IN soe great a matter as we have in hand, which concerneth the whole Realme universallie, and everie one of us particularie, I thinke it shall not neede to use anie long Proheme, to purchase your Favour to be content to heare, and to move you to be attentive to marke what shall be said.

B

FOR

The Right of Succession

FOR, as we fewe be chosen of an infinite Multitude to treate and doe those things that shall be to the Benifit of the Commonwealth, and be put in Trust for all the Bodye of the Realme; soe, I trust, Nature hath grafted in us, a Desire to seeke those Things that may do us good, and to avoid the contrary; wherefore, not minding to use more Words then neede, nor fewer then methinketh the greatnes of the Cause doth require, I will directly proceed to the Matter.

THE great and horrible Murders and bloody Battells that were of long Tyme, betwene the Factions of the redd Rose and the white, the Howse of *Torke* and *Lancaster*, for the Crown of this Realme, by the happie Mariage of King *Henrye* the seaventh and Queene *Elizabeth* his Wief, were ended, whereby great Quietnes and Peace (Thanks be God) hath followed in this Realme, God graunt yt may so continue.

THIS King *Henrye* the seaventh, and Queen *Elizabeth* had Issue, as you knowe, *Henrye* the eighth, the Ladye *Margaret*, and the Ladye *Mary*. Kinge *Henrye* the Eighth had Kinge *Edward*, Queene *Marye*, and Queene *Elizabeth* the Queene Majestie that now is. The said Ladye *Margaret* was first married to *James* the *Scottish* Kinge, who had Issue, *James* Kinge of *Scotts*, Father unto *Marye* now Queene of *Scotts*; after his Decease she married with the Earle of *Anguisbe*, and had Issue by him the Ladye *Mary* now Countesse of *Lincox*.

THE Ladye *Marye* the other Daughter of K. *Henrye* the seaventh, was first married to *Lewis* the

1. Angus.

2. Marg.

ret. with

bp of Lenox.

ed. 52A

See Sandf. Geneat. Hist. 2. the
Lenox in Latin is Levinia;
this name here to be translated
into Lincox. m. 21.

the *French* Kinge, and had no Issue by him. After she was married to *Charles Brandon*, Duke of *Sussex*, first secretlie in *France*, and after openlie in *England*. The Duke and she had Issue the Ladye *Frances* and the Ladye *Ellinor*. The Ladye *Frances*, being eldest, was married to the Marques *Dorset*, by whome she had Issue the Ladye *Katherine* and the Ladye *Marye*. The Ladye *Ellinor* was married to the Earle of *Cumberland*, and had Issue the Ladye *Margaret* now Wiefe to the Lord *Strange*.

By the Statutes of Kinge *Henry* the eighth, viz. the 28th and 35th, the Crowne was entayled, as you knowe, for want of Issue of Kinge *Edward*, to Queene *Marye*, and to the Queene's Majestie that now is, viz. *Elizabeth*, and for want of Issue of their Bodies, to such Person or Persons in Remainder, as should please Kinge *Henry* the eighth, and according to such estate, and after such manner, forme and condition, as should be expressed, named and lymitted, in his Highnes Lettres Patents, or by his Will in Wryting, signed with his Graces Hand: For the establishing of which Succession, we the Subjects of the Realme, besides our Promise by that Acte declared, were also sworne by Oathe, that we should be obedient to such as Kinge *Henry* according to the said Statutes should appoint to succede his Crowne, and not to any other within this Realme, nor to any forreine Power, Authoritie or Potentate. Which Wordes, I beseech you to printe well in your Mind. Whereupon the said Kinge *Henry* made his Will accordinglie, in which he put the Heires of the Ladye *Frances*

Spishewes,
that this was
written in the
year 1574 for
this Lord
Strange be
successed to
the title of
Earle of Derby
in that year.
See 2. Baronage
Genealog. 88.

first, and next of the Ladye *Ellinor* in Remainder.

OTHERS saye he caused a Will to be made which was not according to the Statute; for that yt was not signed with his Hand: And some saye he made no Will at all.

THE Question groweth, whether the Heires of the *Scottish* Queene, or the Heires of the Ladye *Frances* and *Ellinor*, be the next Inheritors to the Crowne, if yt should please God to take from us the Queenes Majestie without Heires of her Bodye; or whether anie of them be inheritable; whereunto I declare my Mind and Judgement.

FIRST the Legacye and Bequeath that Kinge *Henrye* made to dyvers, both of Land and Money, declare that he made a Will; for all were performed and satisfied, as I am informed.

ALSO after his Deceasse dyvers Indentures Tripartite were made betwene Kinge *Edward* and the Executors of Kinge *Henryes* Will and others, and dyvers Purchases and Patents passed under the great Seal of *England*, in consideration of the Accomplishment and Performance of Kinge *Henryes* Will.

THIRDLIE, there was a Will in the Name of Kinge *Henrye*, enrolled in the Chancerye, and dyvers Constates therof made under the great Seale, in which Will the Remainder of the Crowne was intayled to the Heires of the Ladye *Frances* first, and after of the Ladye *Ellinor*.

FINALLIE, in the same Will there was a Clause, that all other Wills made at anie other Tyme were voide and of none Effect, which needed not, if there

there had not bin other Wills, and this signed with his Hand.

ALL which be evident Arguments that Kinge *Henrye* dyed not intestate; but that he made a Will, and that yt was the same Will that was enrolled in the Chancerye; for yt is not to be thought that such an Enrollment was done in vaine.

If this Will was made according to the Statute, then yt is without all doubt that as we be bound, and have taken them for Kings and Queens, that be expressed by Name in the said Statute; soe we be bound to except them that be declared by the Will, in the Remainder or Reversion, that is, the Heires of the Ladye *Frances* and the Ladye *Ellinor*. For they be expressed in the Will and ought to have yt, by like Authoritie and Tytle as others expressed in the Statute; because yt was, in like manner done, with Consent of the whole Realme, and confirmed by others, which being not contrarye to God's Laws, nor the Laws of Nature, and being in our Power to observe and kepe, we ought not in anywise alter nor breake. For we know that the Judgment of the Lord is certein, that he will hold him guiltlesse that taketh his Name in vain. And soe the Acte and Will is a Barre and Conclusion to all others be they never so neere of Blood, if any there bee.

BUT some say yt is no Will made according to the Statute. Whye soe? Because yt is not signed with the King's Hand, saye theye.

I pray you consider well the matter, if yt should nowe be doubted, whether yt was his Hand, and that none should be interpreted his Hand, but that which was written with his owne Fingers, you should

should admitt some of the Parliaments made by Kinge *Henrye* viii. For the Statute made 33 *Hen.* 8. Cap. 21. sayeth, that the Kings Royall Assent with his Lettres Patents under the great Seale, and signed with his Hand, and declared in the higher Howse, to the Lords and Commons, ys of such force as if he were present. According to which Acte dyvers Assents to Parliaments were made, and in some of them some were atteinted of Treason, and suffered: Nowe, if we should doubt whether yt were his Hand or not, yt mighte perchance bring such things in doubt, as we would not gladlye should come in doubt: For we should put whole Parliaments in doubt.

BUT yt may be said, sithe by these Statutes Power was given to King *Hen.* 8. that he might make his Will of the Crowne, which otherwise by the Lawe he could not doe, Reason yt is that he should have followed the Forme of the Lawe prescribed, and if he have not done yt, then yt is voide, and no Lawe, because *forma dat esse rei.*

TO this I answer, That albeyt yt were not signed with his Hand, yet yt is not a sufficient cause that we should reject yt: For if the Forme be so necessarye to be observed, whye, I besech you, do you allowe Queene *Maryes* Parliaments, that were called by Wrytts without Addition of the Style, and Tytle of supream Head of the Church of *England*, &c. where there was a special Statute, and of great Importance, thereof made before, on purpose to declare that the Bishop of *Rome* had no Authoritie in this Realme, and chiefly upon this Cause. For that King *Hen.* seing his Daughter *Maryes* Stubbornes, and Malice to his Doings, and
fond

fond Devotion to the Pope, ment, that if she should at anie tyme come to the place, she should not, if she would not undoe that she had done.

IF you would say that these words of Supremacy need not, althoughe there were such a Statute; much lesse, saye I, these words (with his Hand) in this case. For if you mark well the consideration whye this Authoritie was given to Kinge *Hen. 8.* for the Establishment of the Succession, you shall find that yt was to no other end then the Statute of *Hen. 8. 28.* declareth, that is, Because that after his Lief the Realme should not be destitute of a lawful Governour which you se by his Will in this Parte is fullye performed; For by his Will he hath put first the Heires of the Ladye *Frances* and then of the Ladye *Ellinor*, which being next of his Blood and Kynne, and such as he loved and had no Cause to hate, Nature did move and Reason did teach to preferre soe above all others.

THE Heires of the *Scotishe* Queene you know he has no Cause to love; for Kinge *James*, when he had promised him to meet him at *Yerk*, mocked him, and after made Warres against him: And where the Lords of *Scotland* after the Death of King *James*, had promised the Mariage of the Queene, they deceived him, and Maryed her to the Earl of *Anguisbe*, which was not only without his Consent, but also unorderlye and unlawfullye done, as yt is said.

AND for the words in the Statute, [the will to be signed with his Hand] is not of necessitye to th'end that yt was ment for the Succession, for he might have appointed a Successor certen without his Hand Wrytinge, but for the more suertye there

there should be no counterfeyted Will in his Name, which cannot be presumed of his Will, where those be named in remainder which of Nature and Right ought to be preferred thereunto. Shall we then with caveling Words subverre the State, where by the true meaninge of the Statute, and without Injuriye, to anie we may mayneteyne and soe preserve our Country in safetie. Surely in my Judgement there is no Reason, Equity, and Conscience, that can lead us soe to doe; but say they, yt is not his Will signed with Hand, as the Statute requireth. Howe prove they that? cyther yt must be disproved by a sufficient Number of Witnessles, such as (I take) the Law Civill and Common Law allowe. (For by what Lawe yt was made by that Lawe yt must be disproved;) or compareing of the Hand and Sign wherewith the Prototipe is signed with other Wrytinges that were signed with his Hand; but such conferring cannot be, because the Original cannot be found, and to say the verie truth, after the Will once proved and allowed, which I take to be sufficiently done, when it was enrolled in the Chancerye, and published under the great Seale of *England*, by Kinge *Edward* the sixth beinge supream Head in Earth of the Church of *England*, and soe a sufficient Ordinarye) the Protocal needed not, for the Record was of more Strength. But saye they, there cann be no such Record found in the Chancerye. Whether there be any Record thereof remayning or not, I know not. But sure I am there was a Record thereof and dyvers Constats made of yt under the great Seale of *England* for everye of the Executors, and also for some others: but I pray you tell me, is yt reason because the

Original

Original, nor anie Record thereof appeareth, the Right of those which be in Remainder should be losse? Doe Men lose their Inheritance if by chance of Fire, or otherwise their Evidence be losse? And did Sir *Richard Sackvile*, Sir *John Mason*, Sir *Henrye Nevel*, the Heires of Sir *Phillip Hobbye*, lose their Right to the Bishop of *Winchester's* Lands, because the Record was destroyed? I trowe you will denye it, because the last Parliament, you know, did orderlie restore them.

AND albeyt there be no Record of Kinge *Hen.* Will, yet there is no doubt but some of the Constats doe remaine, and also Copyes thereof; and the Memorye thereof is soe fresh, that albeyt all the Copyes thereof and Constats were destroyed, yet there be Men that doe remember that there was such a Will, and that the Remainder was declared to be in the Heires of the Ladye *Frances*, and then the Ladye *Ellinor*; but let us consider I besech you, at what Tyme, to what Purpose, and End, the Record of the Will was defaced and destroyed; yt was done in Queen *Maryes* Tyme as the common report goeth, and yt must needes be presumed, soe wise and soe learned Men as then bare the sway of the Realme, would not doe it for nought.

WAS yt because Queene *Marye* would not satisfie the Bequest and Legacies therein mentioned? that cannot be, for all were largelye paid and performed before the Tyme, to the utmost.

WAS yt because they would not, that the Masses and Obits therein expressed should not continue? that cannot be thought, when she and

others

others, that did yt, did put their chiefeſt Truſt of Salvation in Maſſes and Obits.

WAS yt becauſe they tendred Kinge *Hen.* Honour that they would not have it appeare, that his Will after his Death, and his Doings in his Lief Tyme were contrarye? How could that be, when they labored by all means that they could to undoe that which he had done, to deface and diſhonour him in everye thing, and (as ſome thinke) burnt alſo his Bones?

WAS yt becauſe there was anie thinge in the Will which mighte authorize the Executors to withſtand anie thinge Queene *Maryes* Affections? none were ſo pliable to her Devotion, as the Executors, and theye which were named in the Will.

WAS yt becauſe they would defeat the Queene Maſteſtic that nowe is of the Crowne? that could not be, for ſhe claymeth not by Will but by Statute.

SITHE then that none of theſe Cauſes that I have told ſerved to mayneteyne their Doings, for the Diſtruction of this Will, and that both the Original and alſo the Record of the Will be diſtroyed, yt muſt of neceſſitie be concluded, that yt was onely done for that they knewe the Will to be lawfull, and ſawe no other waies to deprive the Heires of the Ladye *Frances* of their Right to the Crowne, or elſe they had no cauſe to cancell yt; which imagination of them eſteeming themſelves ſoe learned and ſoe wiſe, ſhould be deadlye ſynne, conſidering that no Governour uſed not in his Madneſſe to doe anye thing, but he would render ſome reaſon or Coulor for yt.

AND

AND I pray you, is yt like that in Queene *Maryes* Tyme (when Lust was Lawe with Reason, Wrong Right, and some so earnestly labored contrarye to the Lawe and their Othes to disobey the Acte of Succession) if they had knowne that anie Man could have justlye preferred their Purpose and said yt was a counterfeit Will, they would not have made him to doe yt by hook or by crook, for hope of reward, for fear of Torture? would not they have done yt by some Collour of Lawe, or by the Examination of Witnesses? should yt not have bin published at *Powles* Crosse, declared by Acte of Parliament, and proclaymed in every quarter of the Realme? Yes doubtless nothing should have bin omitted, that could possiblye be devised, wherebye so manifest an untruth so much to their Commodity might appeare.

BUT because they sawe, they could not doe yt justlye, nor handle the Matter so craftelye, but that everye Man would perceive yt, and in Tyme disclose their Juglings, therefore like polittique Men they tooke unorderedlie meane, and destroyed the whole Record.

IF then noe Witness could be found, and some will nowe appear, me thinketh yt were a verye strange thing.

WHAT if yt must be said otherwise, cyther yt must be his Will signed with his Hand, or else yt is no Will at all?

YT will be as easie to prove the one, as to denye the other.

FOR they saye yt cannot be but a Will, for there be xi. Wytnesses, Men verye honest and substantiall, that with the Subscription of their

Names doe testifie; and uppon that the Executors proveyd the Will, and took uppon them the Administration, and have in everye point fullfilled yt.

SURELYE yt cannot be denyed but the Wytnesses were honest Men, substantiall and worthie to be credyted; but the self same Wytnesses that say yt was a Will, affirme in like manner, that yt was signed with his owne Hand: For the Recordes of the Will be these, [in Wytness whereof we have signed yt with our owne Hande in our Pallace at *Westminster* the thyrde of *December*, &c. being present, and called to be Wytnesses these Persons which have wrytten their Names here under,

John Gates, &c.]

So as I can learne no Remedye, but cyther both must be graunted, or both denyed; that is, that cyther yt is no Will, or ells that yt was signed with his owne Hand.

AGAINSTE their own Testimonies can none of these Wytnesses come; if they doe, they doe discredyt themselves; if anie of the Executors goe about to impugne this Foundation and Testimonie of the Wytnesses, then shall he not onelye distroye his chief Building; but also say nowe against that he hath before most manifestlye confessed when he allowed yt, and procured to be enrolled and put forthe under the great Seale; and so with his Doublenes shall make himself to be no meete Wytnesse. Besides these two kindes of Wytnesses, I cannot imagine anie. For some of the Executors and these eleven Wytnesses were such as were continuallye waytinge on the Kinges Person. If any other will come forthe,

and

and say yt was not his Hand, yt is to be considered, how manie, and what they be; not one or two will serve the Purpose; here must be manie and chief, *omni exceptione minores*. If they were privye or consenting to the imbeselinge the Protacal, or Distruction of the Record, the Lawe will not admytt them Wyttnesses; for yt accompteth them *inter falsarios*, and so infames.

BUT sithe in this Will, which is called Kinge Henryes Will, there is this Clause, That all other Wills made at anie other Tyme should be voide, yt appeareth that he had other Wills: if anie Man will deny yt, the Words of the Will (which otherwise should be in vaine) will playnelye reprove him: But allso there be yet living that have scene the same, and how some of them were entrelyned by Kinge Henrye, and some of them in all or for the most part, wrytten with his own Hand.

BUT perhappes yt will be doubted, whether there were anie such Succession lymitted or set forth in this Will, which methinketh ought not, for yt will appeare by manifest Presumption.

FIRSTE yt is not to be doubted, sithe Kinge Henrye soe long Tyme before, like a prudent Prince, foresawe the Damage that the Realme might fall in for the incerteynty of Succession, and that he had procured Power and Authoritye, by Parliament to establishe it, and that minding in his old Dayes to invade France personally, but that like a Father of his Countrey with good advisement, and deliberation, he made his Will and establish'd his Succession.

SECONDLYE

SECONDLYE yt must needes be, that in that Will soe made before his going over, the lymittation of Succession was in such manner and forme as is declar'd in his last Will; for as I said before there was no cause that he could beare anie affections to the *Scotish Queene*, nor yet to the Ladye *Lineux*; and having no cause to be offended with his other Sister the *French Queene*, nor her Children, yt is to be judged that he would not leave yt to any other before them, nor not provide yt might come to them, specially when he had no other Kinsfolk of his whole Blood to leave it unto.

THIRDLYE this last Will can be no newe Will devis'd, and made in his Sicknes, but the Coppy of his former Will newe, and fayre wrytten, if yt were not the verye old Will; for if yt had been a newe Will then devis'd, who could think that either himself would, or that anie Man durst to have mov'd him to put therein soe many things contrarye to his Honour? and sithe it seemeth to be so before wrytten of his owne device, and no Man durst move him to alter yt in this point that was against his Honour, much lesse durst they themselves devise anie newe Succession, or move to alter yt, otherwise then they found yt, when they sawe yt could not otherwise, naturally be disposed; and therefore if yt should be justlie prov'd, that this Will which we call Kinge *Henryes* Will was not signed with his owne Hand, (as it will be a verye hard matter to prove *Negativum Facti*) yet can yt not be deemed but some of the other Wills, out of which this Will was Coppied, was wrytten and sign'd with his owne Hand, or at the least entrelyned, which maie be said a sufficient signinge with his owne Hand,

albeyt the very Original cannot perhappes be brought forth.

SITH then yt appeareth that Kinge *Henrye* made a Will, Sith yt appeareth by the Testimony and Subscription of Eleven Wytnesses, that yt was sign'd with his owne Hand, Sith yt was so preferred by the Executors, Sith yt was as his Will enrolled in the Chancerye, and Publish'd under the great Seale of *England*, wherein yt was Wrytten, that yt was sign'd with his owne Hand, Sith the Protocal and Record, thereof be without order destroy'd, and all other Wills burnt; and Sith there can come forth no such Wytnesses to disprove yt as the Laws admyt, me thinketh there is no reason or coullor to move us, to think that this was not King *Henryes* Will made according to the Statute, nor yet that Men should thinke that he made no Will; but rather to pronounce and confess, that he made a Will according to the Statute, and that that which is called his Will, is the verye trewe and right Will; and that by the Statutes and by our Othes, we be bound to receive them for Kinges and Queenes that be in the Remainder, if yt should please God to take the Queenes Majestie from us without Issue.

BUT let us admyt an untruth, that there was no Will, to the end that there maie be nothing imagined that cannot be justly answered; and that the truth (which I onely desire) maie appear unto all men; who is then the right Heires to the Crowne?

Yt will be saide the *Scotish* Queene, because she cometh of the Eldest Sister, and is next of Bloode to Kinge *Henrye* 8, according to the maxime of the Lawe.

TREWE yt is, there is such a maxime, but yt maie not be soe largelye taken: for yt must be re-
frayned

frayned to such as be inheritable, by the Laws of the Realme, which be borne within the Kinges Legeance, of Father and Mother *English*, or out of the Kinges Legeance, of Parents *English*, and in the Kinges Legeance: for if you will put Strangers and right *English* in one case, what awayleth the Libertye of *England*? what profiteth it to be an *Englishman* borne? for strangers albeyt they have not soe great a Commoditye in *England* in all things, as *Englishmen* have, yet in some things they have more: for they be not onely not bound to serve the Realme with their Wits, to mayntayne yt with their Goods, and defend yt with their Bodies and Bloode, as we be, but also they maie come when they will, tar-rye as long as them listeth, and depart when yt pleaseth them; wherefore by nature there ought to be greate difference betweene the Strangers and *Englishmen*, and that those onely should enjoye the sweete which be bound to taste the sower, and soe our Laws have provided, if we will suffer them to stand in force: for the Statute of 28 *Ed.* 3. which expounding the Lawe in this case, sayeth, that the Kinges Children wheresoever they be borne, in the Realme or out, be inheritable to their Ancestors, and that all others which from that tyme shall be borne out of the Kinges Legeance, whose Father and Mother at the tyme of their birth be at the Fayth and Alligiance of the Kinge of *England*, shall be in like manner inheritable to their Ancestors; whereby a Consequent maie be gather'd, *a contrario sensu*, that those that be borne out of the Alligiance, of Father and Mother that be not in the Fayth and Alligiance of the Kinge of *England*, be not inheritable within this Realme; and so it appear-
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eth by *Bracton*, the Lawe before was: For he sayth, in the 3d of Exceptions this, *Sicut Anglicus non auditur in placitando aliquem de Terris & Tenementis in Francia, ita non debent Alieginæ & Franciginæ, qui sunt ad fidem Regis Francie audiri placitando in Anglia*: and in another place, *lib. 4. titulo de exceptione dilatoria*, *Bracton* sayeth thus, *Item respondi poterit quod de quo dicitur nil capere potest, antequam fiat fides Regi Anglie*.

A N D *Lyttleton* sayeth, that in Actions reals and personals brought by one borne out of the Kinges Legeance; yt is a good Plea for the Defendant, to saye that the Plantyffe was borne out of the Kinges Legeance.

B U T some saye, that *Scotland* is a Member of the Crowne of *England*, and therefore the People therein borne be in the Alligiance of the Kinge of *England*. Although *Scotland* of right belong to the Crowne of *England*, yet yt is not a sufficient Cause that the People borne in *Scotland* be in the King of *England's* Legeance. It cannot be denied but *Normandy* of right belongethe to the Crowne of *England*, yet yt followeth not therefore that the *Normandes* be in the Alligiance of the Kinge of *England*; Albeyt that *Normandy* belongethe to the Crowne of *England*, yet because the People thereof did declyne from their Fayth and Alligiance that they oughte to their Kinge of *England*, and became Subjects and gave their Fayth to the *French* Kinge, their Lands were escheated, as appeareth by the Statute *pr. Regis cap. 12*. So in lyke manner, Albeyt *Scotland* have sometymes done their Homage therefore to

the Kinge of *England*, yet we say that they have of long tyme forsaken their Fayth and Alligiance to *England*, and have not become Rebells, but rather have been taken for Enimies to *England*: For they have byn usuallye ransomed uppon their takings as Enimies, and not executed with Death lyke Rebells; And by that means Kinge *James*, Father unto their Queene that now is, was at the tyme of her Birthe, and his Death, out of the Alligiance of *England*; wherefore to say that she was borne within the Kinges Alligiance, because she was borne in *Scotland* is a mere Cavillation, *secundum non causam ut causa*, more worthie to be laughed at then requieringe anie Answer at all.

N o w let us compare these things together? You knowe, that the *Scotish* Queene is not the Kinge of *England*'s Child, nor was borne in the Kinge of *England*'s Alligiance, nor yet come of Father and Mother in the Fayth or Alligiance of the Kinge of *England*; Nor as a Freewoman in *England*; Wherefore by the Lawes of *England* she cannot inherite in this Realme. And if you desier a Prefident and Example for the very self same Cause that we now treat of, you maie find yt in the Cronicles, howe *Margaret*, Daughter and Peire to *Edward the Outlawe*, Sonne and Heire to *Edmond Ironside* Kinge of *England* married to *Malcadia* Kinge of *Scotts*, nor anie of his Children, ever made anie Clayme to the Crowne of *England*: But her Husband and her iii Children after him, and their Issue, being Kinge of *Scotland*, did Homage to the Kinge of *England*.

B U T yt will be said, That Kinge *Henrye* the second was borne out of the Kinges Alligiance,
his

his Father was no Denizon, and that he inherited the Crowne. Trewe yt is that he was borne out of the Kinges Alligiance, but whether he was made free or not, yt is uncerten. Albeyt yt is to be supposed that his Grandfather, minding that he should succeed him, omitted nothing that should serve for that purpose. But this you may know, bye our Cronicle, that he came in rather bye Election, and consent of the Realme, then by Inheritance. For *Henrye* the first procured that the Clergye, and Nobilitye, should be twice sworne to *Mawde* the Empresse, his Daughter, and her Heires, and for breaking that allso and receiving *Stephen* the Historie saythe, howe the Realme, was marvelouslye plagued, and speciallye the Clergie and Nobilitye, and that by *Stephen* himself. And besides, if we will weigh the matter indifferentlye, we maie trewelye saye, that *Henrye* the second enjoyed the Crowne by Inheritance lawfullye. For albeyt *Mawde* were not Queene of *England*, *de facto*, yet was she *de fine*. For *Stephen* was but an Usurper, and so Kinge *Henrye* the second was the Queenes Child, which you see by the Statute of *Edward* the third is free, wheresoever he be borne.

ANOTHER Objection there is of Kinge *Richard* the second; howe he was borne at *Bordeaux*, out of the Realme, and yet was Kinge.

To that I answere he had yt justlie. For he was borne of Father and Mother *English*, in the Kinges Alligiance, which is sufficient; and allso for advantage, *Bordeaux* was then in Fayth and Alligiance of the King of *England*.

THUS I take yt to be playne, that the *Scotish* Queene can make justlye by the Lawes of this Realme no clayme to the Crowne thereof. Because she hath no Right in Lawe, or Reason. And therefore we will proceede to the Examination of the Tytle of the Ladye *Lineaux*, whome perchance some will thinke to have the next right, because she was Daughter of the Ladye *Margaret* the eldest Sister of Kinge *Henrye*.

TREWE yt is, she was her Daughter; but her Father the Earle of *Anguishe* was a *Scot*, an *Alien*, and no Denizon, But yt will be said, yt maketh no matter what her Father was, soe that she were borne in *England*, as yt cannot be denyed she was. For as some saye, the Law of *England* allowethe everye Person to be *English* that was borne in *England*, of what Nation soever his Parents be, if they were onely *ad Fidem Regis Anglie*, that is, sworne to be trewe to the Kinge of *England*, and his Subjects, as the Earle of *Anguishe* at the Birthe of the Ladye *Lineaux* his Daughter was not. Perchance yt mighte make somewhat to the purpose in the Opinion of the common People, albeyt in verye deede, and by the Lawes of this Realme, yt seemethe nothing at all. For yt appeareth in 14. *Edw.* 3. and 14. *Hen.* 4. That albeyt an *Alien* be sworne to be trewe to the Kinge, and to the Realme in anie Leete or Session, yt is not abled thereby to purchase Landes, but must be enabled thereto expresslye by the Kinges Lettres Patents. But that the Child should inherite, and the Father not free in *England*, yt cannot but seem verye strange, howe anie such Opinion should be conceived of
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anie Man learned. For yt dyffereth from the Lawes and Pollicies of all other Places of the World: Wrytten Law of this Realme there is none to maynteyne yt; and Reason whereon such Customes should be groundd, I thinke will be hard to fynd. In all other Places the Lawe is, *Partus sequitur Patrem*; that is to say, the Child shall be counted of that Nation where his Father was borne: If the Father be *French*, wheresoever the Child be borne, yt shall be counted *French*: If the Father be an *Italian*, the Child shall be an *Italian*, If he be *Dutch* the Child shall be *Dutch*; except his Father have forsaken his owne native Countrie, and hath not onely given his Fayth to another Prince or State, but also is admytted to be a Cittyzen or Freeman there.

AND the Reason seemeth to be this, That sithe Man natureallye is disposed to live in some Societic, and indeed must needes soe live, if he will live like a Man, and not wander abroad lyke an unreasonable Beast, he must joine himself to some Societic or Congregation; wherein as he desireth to enjoye the Benefits that growe of such civil Societic, so yt is meete and reasonable, that he should be Partaker of the Burdens, and faythfullye to mayneteyne and defend yt, by which he himself is preserved and maynteyned. And because God first made Man, and of Man Woman, and hath allso made him a more apt Instrument to serve in the Commonwealthe, in the Functions both of Bodye and Mind; therefore is Man preferred before the Woman, and thought the more worthie Person, not onely by the Lawes of Nature, but allso by all other Lawes, and by the Lawes of this
Realme

Realme, as appeareth by 7 *Edw.* 2. And soe the Children in all other Places followe the condition and State of their Fathers, as the more worthie Persons, which they do also here in *England*. For the Lawe in lyke manner sayth, *Partus sequitur Patrem*; which if yt should be expounded onely in the Cases of the Bondman and his Wief, and that the Child should be bound and Free according to the Condition of the Father, then yt is no Maxime as the Law termeth yt; for a Maxime is a Rule that serveth to rule and discusse more Cases then one.

BUT let us seeke if we can fynd out anie Reason to mayneteyne this Opinion, that everie Person borne in *England*, of what Nation soever the Parents be, shall be free. For positive Law wrytten, that which is conteyned in the Booke of Exposition of the Termes of the Lawes of *England*, which of what Authoritye yt is I know not.

BUT what sayth the Booke, verely this, If an *Alien* come and dwell in *England*, being none of the Kinges Enimies, and there hath Issue, this Issue is not *Alien*, but *Englisb*.

BUT no such *Alien* was the Earle of *Anguisbe*: For as the Cronicle wytnesseth he came not to *England* with mind to tarrye and inhabite there; but after he had maryed the *Scotish* Queene, both without Kinge *Hen.* her Brother's Consent, and also of the Council of *Scotland*, that she and her Husband lyke banished Persons fled into *England*, and wrote to the Kinge for Mercye and Comfort.

THE Kinge enclined to mercye sent them Apparell, Vessell, and all thinges, willing them to be still in *Northumberland*, till they knewe further of his

his Pleasure, whereupon they lay still at *Harbottle*, where she was deliver'd of the said Ladye *Lineaux*: And after when the Kinge had sent for her and her Husband the Earle to come to the Court, and they promised soe to doe, and she was cominge, and asked for him, but he was returned into *Scotland*, belike to his owne Wief, as you shall hereafter heare, or mistrusting least the King had understandinge howe he had distayned and abused his Sister, and soe she came without the Earle to the Court. When the Kinge heard that the Earle of *Anguishe* was soe departed, he said, *yt was done lyke a Scott*; and soe after this Queene had taryed one whole Yeare in *England*, she returned into *Scotland*. Wherebye yt maie appeare that the said Earle of *Anguishe* is not of that sorte of *Aliens* of whome the Booke of Exposition of the Termes of the Laws speakes: For he came not into *England* to dwell nor had not anie Dwellinge-Place there, but rather was to be judged a Guest, or as a Bird that leaveth for a Tyme his native Countrey, whilest the fowle weather lastethe, or as a wilde Beast that is chased wirth Houndes out of his Haunte, and flyethe till he perceiue they prosecute him no further. And soe the Ladye *Lineaux* can clayme no Benifit by this Law, (if yt be taken for a Law) but rather yt maketh altogether against her. Moreover Statute there is none to mayneteyne this Opinion, that sayeth, Everye Person is *English* that is borne in *England*, of whatsoever Nation his Parents be. Then of necessitie yt must be by Custome, if yt be not by Law; which having no reason to mayneteyne yt, or if yt be contrarye to Reason, yt is no Lawe, have yt had never soe longe continuance; but yt is an Evil to be abolyshed,

bolyshed, as the Lawes of the Realme do playnelye teach us: For they saye, Customes not grounded uppon Reason, or contrarye to Reason, cannot prescribe. But you will saye, The Reason is to intice Strangers to come and inhabite this Realme. What Inticement can yt be, when they themselves, by their coming, shall not be free, nor maie purchase anie Landes to their posteritie? And albeyt that Reason mayneteyned this Custome, yet can yt not serve the Ladye *Lineaux*? for her Father the Earle of *Anguishe* came not into this Realme to inhabite, and dwell in the same, as before is sufficientlye declared. Perchance yt will be said, That yt is the Nature of the soyle to make such as be borne in *England* free of *England*. But howe happeneth yt that this Propertie is private in *England*, and not common to all other Countreys? Trewelye this is not allowed in anie other Countreie, and not without good Reason; for division of Kingdomes, States, Ordinances of Cittyes and Commonwealthes, and the Libertye and Freedome thereof, is not by Nature, but comethe by Consent of Men, and by Mens Law: And they receive none to be free in their Commonwealthes, but such as eyther for their Fayth, their Father being Cittizens bare thereunto, they do not suspect but they will walke in the Steppes of their Parents Fidelitie; or such as uppon greate confideration, and with Promises of their Fidelitie and Alligiance, they do newelye admytt to be Cittizens, of which Number yonge Babes cannot be; For, *simpliciter*, the Magistrate can have no Respect of them, who be not meete nor able to make anie Promise or Bond of Fidelitie

to

to the Commonwealthe. For as the Commonwealthe is bound to mayneteyne and preserve them that be free from Injurie and Injustice, so doth yt requier of them Promise to be trewe thereunto, to serve and defend yt to their uttermost Power. And, marke I pray you, into what Absurditye you shall fall, if this shall be admytted for Law, That everye one borne in *England* should be free of *England*, of whatsoever Nation his Parents be.

I ASKE this Question, if the Child of an Alien borne in *England*, be free of *England* by his Birthe, and by Reason also that his Father is a *Scott* be free also in *Scotland*, as doubtless by their Laws he is, wheresoever he be borne; if Warres should happen, as yt hath many tymes, betwene these two Realmes, whose Parte shall he take?

No Man can serve two Maisters at one tyme, saith the right Law-maker; and also common Reason. If he followe the *Scotish* Parte, he is a Traytor to *England*; and is likewise a Traytor to *Scotland*, if he take parte with *England*; if he will take parte with neyther, then is he a Traytor to bothe; for everye Man by the Lawes of Nature, which is God's Lawe, and by the Lawes of everye Realme, is bound to declare himself a Member to one Common-wealthe, that is, to bestowe Lief and Goods in the defence thereof when neede requir-eth; therefore I aske which parte yt is like he will take, that is thus a mongrell of two Nations.

TREWLIE in my Judgement there is no Reason to move cyther *England* or *Scotland* to thinke that such a fellowe can be trewe to anye of them bothe, for yt hath bin a principle receaved of all

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Men,

Men, as longe as Denizons and states of Commonwealthes have bin, that no Man can be a Cittizen of two Citties, or Commonwealthes, because he cannot serve them both at once, wherefore I cannot see that this proposition, that everye Person borne in *England* of what Nation soever his Parents be, should be free in *England*, can be justified by anie Lawe, or Reason, and therefore the Ladye *Lineaux* can take no benifit thereby.

BUT admyt the Lawe of the Realme were certain, That all Children borne in the Realme should be free, of what Nation soever the Parents were; if yt be trewe that is reported, the Ladye *Lineaux* is clearelye excluded by the Lawes of the Realme to be Heire to anie Person of anie Possession within this Realme. For yt is said when her Father the Earle of *Anguishe* was maryed to the *Scotishe* Queene her Mother, he had another Wief livinge, wherefore a Divorce was sued betwene him and the *Scotishe* Queene in the Lief of the Earle of *Anguishe* her Father, viz. the Ladye *Lineaux* maryed the Lord of *Mussen*, with whome she continued all her Lief as Man and Wief.

BUT yt maie be said, That the said Divorce cannot disable the Ladye *Lineaux* to be Inheritor to her Mother the *Scotishe* Queene: For albeyt he had another Wief living at the tyme he maryed the *Scotishe* Queene, yet forasmuch as she was ignorant thereof and maryed him *bona fide*, the Child borne by them is by the common Law Lawfull.

TREWE yt is, That by the common Law, she is legitimate: But the Lawe under which we were borne, and whereby in Case of Inheritance we be
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and must be ruled do not allowe her for legitimate, as they doe not likewise others in like case.

THE Common Lawe sayeth, If a Man hath begotten a Child of a Woman unmaryed, and asrer the Birthe of the Child, doe marye her, the Child shall be accounted legitimate, as if yt had byn borne in lawfull Matrimony. But the Lawes of *England* be, and alwayes have byn contrarye, that yt shall not be accounted legitimate, albeyt great Suit hath byn made to the contrarye, and to make the Lawes of the Realme to agree with the common Law in this pointe. As appeareth by the Statute of *Merton* the 9th Chapter. So albeyt the common Law in lyke manner alloweth the Child borne in the second Marryage, the first not being dissolved, to be Lawfull. If anie of the Parents thinke the Marryage good, yet doe not the Lawes of the Realme allowe the same, but because the first Matrymonye was never Lawfullye dissolved, and that one Man can have but one Wief at once, yt accounteth the 2d Maryage voide, and the Childe borne therein is adjudged a Bastard, and not inheritable in this Realme. As appeareth by *Glanville*, *Bracton* and *Britton*, and all the whole course of the Lawes receiv'd and used from beginninge unto this tyme. Wherefore the Ladye *Lineaux* cannot justlye pretend anie manner of Right to the Crowne of *England*.

SOE yt maie appeare by the Lawes of the Realme, neyther the *Scotish* Queene, nor yet the Ladye *Lineaux* have anie manner of Tytle to the Crowne of *England*, be they never soe neare of Blood.

THE one because she is not the Kinges Childe, nor free in *England*; the other because, if she were free, the Lawes do not allowe her for legitimate, and inheritable in the Realme. And therefore as to the next of Blood and trewe and just Heire by our Lawes the Crowne ought to descende to the Heires of the *French* Queene; which be the Daughters of the Ladye *Frances* and the Ladye *Elinor*, and presentlye to the Ladye *Katherine*, being the eldest Daughter to the eldest Sister the Ladye *Frances*.

AGAINST these Heires of the *French* Queene is objected (say they) these cannot inheryte; whye soe?

BECAUSE they were not lawfullye borne; for *Charles* Duke of *Suffolk* had at the same tyme he maryed the *French* Queene, another Wief livinge, that is, the Ladye *Mortimer*.

TO this I answere, that albeyt yt were trewe, that the Ladye *Frances* and the Ladye *Elinor*, were not lawfullye borne; (as yt is not trewe, as you shall heare hereafter, yet yt hurteth not the Tytle of their Heires given by King *Henryes* Will. For yt is appointed to the Heires of them, and not to themselves, as the Will playnelye declarethe.

BUT verelye this is a meer Slaunder, growen altogether uppon Mallice, and no Occasion made uppon anie just Presumption. For I beseech you tell me, is yt like, or can anie reasonable thinke, That if Duke *Charles* had another Wief livinge, when he maryed the *French* Queene, that Kinge *Henrye* would have consented that his Sister should have received soe great Injurye, that she should be kept like a Concubine.

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WOULD his Council have suffer'd soe great Infamie to have come to their Maister's Stocke?

WOULD the Nobilitie of the Realme with such Triumph have honored soe unlawful an Acte?

WOULD the common People (who manie tymes be readie to speake evil of well doing) have holden their Tongues in soe manifeste Adultery?

Is yt like that in soe long tyme that the *French* Queene and the Duke lived together as Man and Wief, that was all the Lief of the *French* Queene, That she should be kept as a Concubine and not heare of yt?

WAS yt possible, That among soe manie Women, which dailie resorted to her, and whose Nature is to seke for all such Things, be they never soe secrete, and to communicate them to others, that none would have told her of yt?

Is yt to be believed that she contrarye to the nature of other Women, would have byn contented that other Women should have byn Partaker of the Fieshe, which she accordinge to God's Woorde tooke onelye to be her owne?

OR can anie Man thinke, that anie Woman can be contented to live in a meane degree, when she maie be a Dutches? as the Ladye *Mortimer* might have byn justlie, if she had byn the Duke's Wief.

SURELYE there is no Reason to make anie Man thinke soe, much lesse to reporte soe?

BUT admyt that the Duke had another Wief livinge when he maryed the *French* Queene, yet forasmuch as he and she were maryed together openlye, continued all their Lives as Man and Wief, and

and nothinge said againste them, and everye Man tooke them for Man and Wief, and that the Ladye *Frances* and the Ladye *Elinor* were not taken to be Bastards during their Lives, nowe after their Deathe, neyther they nor their Children maie by the Lawes of this Realme be convicted therefore: For the Lawes of this Realme saye thus, *Nec justum est aliquando mortuum facere Bastarde, qui toto tempore suo tenebatur pro Legitimo*; as appeareth by a judgement given at *Westminster* 23 Ed. 3.

But for the Declaration of the Truth of this Matter, and to put out of the Heades of People this fond Opinion and Talke, which onelye is moved of Malice, and cometh not of anie certen Knowledge, and increased by light Credyt, without Consideration, and mayneteyned of such as passe not so much on the Truth, as they desire to satisfie their fond Affection. You shall understande, that the Duke, being then Sir *Charles Brandon*, livinge in the Court sole and unmarried, made a Contracte of Matrimonye with one called Mrs. *Anne Browne*: and before anie Solemnization of that Maryage, not onelye had a Daughter by her, which after was maryed to the Lord *Powis*, but allso brake Promise with her, and openlye maryed with the said Ladye *Mortimer*, which Maryage the said Mrs. *Anne Browne* immediatlye accused to be unlawful, for that the said Sir *Charles* had made a Precontracte with her, and had carnallye knowne her. Which beinge trewelye proved, Sentence of Divorce between the said Sir *Charles Brandon* and the Ladye *Mortimer* was given, and he solemnlye maryed

ryed to the said Mrs. *Anne Browne*; at which Maryage all the Nobilitye were presente, and did honor yt. And he had after by her another Daughter, which was maryed to the Lord *Monteagle*. After this the said Mrs. *Anne Browne* continued with him all her Lief, without anie Impeachment of that Maryage. After whose Death Kinge *Henrye* havinge him in great Favour, ment he should for his better Prefermente have maryed the Ladye *Lislie*, being a younge Mayde, and an Inheritor. Whereupon the said Sir *Charles* was created Viscount *Lislie*. But the Maryage by reason of her Youthe tooke no place. After this he was created Duke of *Suffolk*, and *Lewes* the *French* Kinge dyinge, and leaving the said Ladye *Marye* Daughter to Kinge *Henrye* the seaventhe a Widow, the said Duke *Charles* being sent into *France* for her, with the Consent of Kinge *Henrye* the eighth, maryed her twice; first privately in *France*, and after openlye in *England*, as before is declared; and they lived together all their Lives as Man and Wief, and were so accepted of all Parties, no Person impugning or gainfaying the said Maryage, (for there was no Cause to the contrarie) and had issue betwixt them the Ladye *Frances* and the Ladye *Elinor*; against whome the Ladye *Powes* their base Sister, in the tyme of Kinge *Edward* the sixthe, alleadged Bastardye. But they were both by the Lawes of the Realme, and by the common Law, declared to be legitimate, and borne in lawful Matrimonye, soe as no Man can say they be Bastards; and if he could, yet at this presente, because yt was adjudged for them, and allso that they both be dead, and dyed taken as legitimate,
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he ought not to be hearde by anie Law in the World, if he would object yt against them. But having no trewe ground of Accusation, but shewing his malice, is rather a Slaunderer to be reprov'd, goinge about to sowe Sedition in the Commonwealth, as a seditious Person to be punished, mynding to move civil Warres in this Realme, and to bring yt to Distruction and Dissolation, as a Traytor to be taken to the Realme, purposeinge to subverte the Providence of Almightye God, as God's Enimie to be taken and used.

F I N I S.





Here followeth the

Argument and Answer

O F

Sir *NICOLAS BACON*,

Lord Chancelor of *England*,

Unto the Matters aforesaid, touching the

Inheritance of the Crown.



HE great providence (good reader) of the eternall God who of nothing created all things, did not onely create the same by his infallible power, but also by the same power gave a speciall gift and grace also to everye living thinge to continue, to renewe, and to preserveth his owne. But in this consideration the Condition of mankind among above all other earthlye things hath his peereless, prerogative of wyt and reason;

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wherewith he onely is of God graciously endewed and adorned; By the which he doth not onely provide for his present necessitye and safegard (as doe also naturally after their sorte, all kind of beasts, and all other Living thinges, voide of reason) But also by the pregnancye of wyt doth long afore foresee the dangerous perills that manie yeares after maie happen eyther to himself, or to his Countrey. And then by diligence and carefull opinion, doth invent apt and mete remedies for eschewing of such mischiefs, as might outragiously afterwards occurre. And the greater the feare ys of great mischiefs, the greater, deper, and speedyer care ys wont to be taken to prevent and cutt off the same. It is also most certen by the confession of all the worlde, That this case is principallye due by ech man that hath opportunitye to doe good therein to his Prince, his Countrey and to the Commonwealthe, and good quiet of his Countrey, for the continuance and happie preservation of the same. To the preservation whereof, as there are many partes and branches belonging, so one principall parte ys for Subjects lovinglye, and reverendlye to honore, dread, and obedyentiye to serve their Sovereigne that chaunceth presentlie to rule and governe. The next to foreknowe to whome they should beare their allegiance, after the decesse of their Prince and Governor: Which being once certeinlye and assuredlye knowne, as yt procureth, when the tyme requireth, readye and suitable obedyence, with the great comfort and universall rest and quietnes of the Subjects; Soe wheresoever for the said succession, there is amongst them disorders, and diversitie of Judgements,

ments, the matter groweth from faction to faction, and from playne hostilitie to the danger of manye mens lives, and manye tymes to the utter subversion of the whole State. For the better avoyding of these and the like inconveniences; Albeyt at the beginning the Princes reigned not by discent of Blood and Succession, but by Choise and Election of the worthiest, the World was for the most parte constreyned to repudiate Election. And so often tymes for the better and the worthier, to take a certen Issue and Offspringe of some onlye Person, thought otherwise perchance not soe meete; which defecte is supplied partely by the great Benefitte of the universal rest and quietnes that the People enjoye thereby, and partely by the grave and sage Councillors to Princes; that the whole World in a manner these manye thousand Years, hath embraced Succession by Blood, rather then by Election. And polittique Princes that have had no Issue of their owne to succeed them, have had ever especiall Care and foresight thereof, for avoyding of civill Discension. For that you People might always knowe the trewe and certen Heire apparant, cheiflye where there appeared anie likelihood of varietye of Opinion or Faction to ensue about the trewe and lawfull Succession and Government; this care and foresight doth manifestlye appeare to have bin, not onlye in many Princes in Forreine Countries; but also of this Realme, as well before the Conquest, as allso after; namely in King *Edwarde the Confessor*, in declaring and appointing *Edgar Athelin*, his Nephew's Son, his Heire: As also in King *Richarde the first*, who before the enterprisings

prisings of his Journey to *Jerusalem* (where for his Chevalrye he atchived great honore) declared by consent of his Nobilitie and Commons, *Arthure*, Sonne of his Brother Duke of *Britaine*, his next Heire in Succession to the Crowne; of the which *Arthure*, as also of the which *Athelin*, we will speak hereafter. This Care had also King *Richarde* the second, what tyme by authoritie of Parliament he declared the Lord *Edmond Mortimer*, that marryed *Philippe* the Daughter and Heire of his Uncle *Lionell*, Duke of *Clarence*, Heire apparant. And to discend to later tymes, our late King *Henry* the VIIIth, shewed, as yt is knowne, his prudent and zealous Care in this behalf before his last noble Voyage into *Fraunce*. And now if God should (as we be all, as well Princes, as others, subject to mortal Chaunces) once bereve us of the present Governor, the Harts and Judgments of Man being no better, nor more firmly fixed and settled towards the expectation of a certen Succession, then they seme now to be; then woe, and alas, yt yrketh my very Hart once to thinke upon the imminent and inevitable Dangers of this our noble Realme, being like to be overwhelmed with the raging, and roaring Waves of mutual Discord, and to be consumed with the terryble Fyre of civill Discension. The feare whereof is the more, by reason already in this later Dayes, some Flames thereof have sparkled and flusht abroad, and some parte of the rage of the said Fluddes, have already bearen upon the Bankes; I mean the whole Contention that hath byn in so many Places, and amongst so many Personnes, of Bookes, also that have

have byn spread abroad, and daylye are spredd, being framed affectionately, sounding according to every Mans sinister opinion and private appetite.

SEEINGE therefore that there is just Cause of feare, and of great Daunger likelie to happen by this varietie of Mens Judgments soe diversly asserted, as well of mean Men, as of great Personages, I take yt the parte of everye trewe *Englishman*, to labour and travell, and ech Man for his possibilitie, and for such tallent as God hath given him to helpe in convenient tyme for the preventing of this imminent Daunger.

WEE knowe what Witt, what Pollicie, what Paynes, what Charge Men imploy to provide that the Thames or Sea do not overflow such Places as be most subject to Daunger ; we knowe what pollitique Provision is made in many good Citties and Townes, both to foresee that by Negligence there arise no daungerous Fyres, and, if they chaunce, with all Diligence to repress the rage thereof ; wherein among other his prudent doings *Augustus* the Emperor is commended for appointing at *Rome*, seaven Companies ordinarilie to watch the Cittye for the purposes aforesaid, wherunto he was induced, by reason the Cittye was in one Daye in seaven severall Places set on Fyre.

AND shall not wee everye Man for his parte and vocation, have a vigilant care and foresight to the extinguishment of this Fyre alreadye sprung out, that may (if the matter be not wisely foreseen) distroye, subvert, and consume not one Cit-
tye

tye onelye; but also importe an universall Calamitye and Destruction.

WHICHE to repress, one readye and good waie semeth unto me, if Men maye knowe, and be throughlye perswaded in what Person the *Right of Succession of the Crowne* of this Realme doth stand and remayne; for nowe manie Menn through Ignorance of the said Right and Tytle, and also the same being depraved by certein sinister Perswasions in some Bookes wherunto they have too lightlie given credence, be carryed awaye from the right Opinion and good Hart, which otherwise they would and should have.

THE which kind of Men, I doe hartelye wish from the said corrupt Judgments be revoked, and shall in this Treatise do my best endeavour to remove, not presuming of my self, that I am anie thing better able than others, this to doe, for I knowe my owne infirmitye: But being gladd and willing to imparte to others such motives, as upon the reading of such Books which of late have byn set forth by the adversaryes, as after the diligent weighing of dyvers Arguments to the contrarye, come unto me, to satisfie any honest and indifferent Man that is not obstinately bent to his owne will and affection, or to some other synister meaninge or dealinges.

WE say then and affirme, that the right Heire and Successor apparant to the Crowne of this Realme of *England*, is at this tyme such a one, as for the excellent giste of God and Nature in her most Princelye appearing, is worthie to inherit this noble Realme, or any other, be yt of much more dignitie and worthines.

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BUT now I claime nothing for the worth of the Person, which God forbid I should be anie thing prejudiciall to the just Tytle of others most open and manifest ; Right, Justice and Tytle, do not concurre with the worthines of the Person. Then let the prayse and worthines remayne where yt is ; and the Right, where God and the Law hath placed yt.

BUT seing God, Nature, and the Law, doth call the Person to this expectation, whose Interest and Clayme I doe nowe prosecute, I mean the right excellent Ladye *Marye* Queene of *Scotland*, I hope that when her Right and just Tytle shall be knowne and hard, and considered by the indifferent Reader, yf he perswaded already for her right, he shall be more perswaded and firmly settled in his trewe and good Oppinion ; and that the other Parties being of a contrary mynd, shall find good Causes and Groundes to remove them from the same, and to give over and yeld to the truth.

HER Graces Tytle then, as it is most open and evident, foe ys yt most conformeable to the Law of God and Nature, and of the Realme, and consequentelye in a manner of all other Realmes of the World, as growing to the neereft Proximitie of the Royall Blood. She is a King and a Queenes Daughter, her self a Queene, Daughter to the late King *James* of *Scotlande*, Sonne to the Lady *Margaret*, the eldest Sister to King *Hen. I.* whose Daughter allso the Lady *Lineaux* is by a later Husband. The Lady *Frances* late Wief to *Henrye* Marques *Dorsett*, after Duke of *Suff.* and the Lady *Elinor* late Wief of the Earl
of

Cumberland, and their Progenie proceeds from the Lady *Marye Dowager of Fraunce*, youngest Sister of the said Kinge *Hen. VIII.* late Wief to *Charles Brandon Duke of Suff.* I might here fetch forth old former Dayes, I might reache back to the noble and worthie Kings before the Conquest, of whose royall Bloode she is discended; which is not parte of our purpose, neyther doth enforce her tytle more than to prove her no estraunger within this Realme. But the arguments and proofes which we mean to alleadge and bring forth, for the confirmation of her right and tytle in Succession, as Heire apparant to the Crowne of *England*, are gathered and grounded uppon the Lawes of God and Nature, and not onely received in the civill Pollicies of other Nations, but allso in the old Customes and Lawes of our owne Countreye; by reason approved, and allso by long usage, and continuance of Time, from the first Coustitution of this Realme, unto this present Daye. And yet for all that, hath it byn and yet is, by some Men attempted artificiallye to object and cast many mysty dark Cloudes before Mens eyes, to kepe from theu (if yt may be) the clere lyght of the just Tytle, the which they would extinguishe, or at the least blemish with some obscure shadow of Law; but indeed against the Law; and with the shadow of Parliaments, but indeed against the true meaning of Parliaments. And albeyt yt were ynough for us (our cause being so firmly and surely established uppon all good Reason and Lawe) to stand at defence and onelye to avoide (as easlye wee may) their objections, which principallye and chieflie

ar grounded upon the common Lawes and Statutes of this Realme; yet for the bettering and strengthening of the same, we shall lay forth sundrye great and invinceable Reasons, joyned with good and sufficient Authoritye of the Lawe, soe approved and confirmed, that the adversaries shall never be able justlye to impugne them; and soe that we trust after the reading of this Treatise, and the effects of the same well digested, no manner of scruple ought to remayne in anye Mans hart concerning the right and tytle, whose expectation and conscience, althoughe wee trust fullye in this discourse to satisfie, and doubt nothing in the world of the righteousness of the Cause; yet must wee needes confesse the manner and forme to intreate therof to be full of difficultie: For such causes of Princes, as they be seldome and rare, soe ys yt more rare and straunge to find them discussed and determynd by anie Lawe or Statute, albeyt nowe and then some Statute tend that waye. Neyther doe our Lawes, nor the Course of the *Romaine* and Civill Lawe lightlye medle with the princelye Governement, but onely with private Mens Causes. And yet this notwithstandinge, for the better iustificacion of our Cause, albeyt I denye not but by the common Lawe that must be known, who ought of right to have the Crowne, and that the common Lawe must discerne the right as well of the Crowne, as of Subjects; yet I say that there ys a great difference, betweene the Kings right, and right of other. And that the tytle of the Crowne of this Realme, is not subjecte to the tytles and principalls of the common Lawe of this

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Realme,

Realme, as to be ruled and tyed after such order and course, as inheritaunce of private Personnes is by the same. For the prouffe wherof, let us consider what the common Lawe of this Realme ys, and howe the Rules therof be groundded, and doe take place.

THAT ys verie plaine, That the common Lawe of this Realme ys no Lawe written, but groundded onely upon a generall custome throughout the whole Realme; as appeareth by the treatise made by the auncient and famous wryter of the Lawes of this Realme, named *Renulph. de Glanvillam*, who wrote in the tyme of the noble King *Hen. 2.* of the Lawe and Custome of this Realme; being then, and also in the tyme of King *Rich. 1.* the cheif Counsellor and Justice of the same Kinge; and also by the famous Justice *Fortescue*, in his Booke which he wrote, being Chancellor of *England*, *De Laudibus Legum Anglie*; and by 33 *Hen. 6.* and by 23 *Edw. 4.* which Custome by usuall and continuall practize heretofore had in the Kings Court within this Realme, ys now known and mayneteyned; wherein we seme much agreeable to the old *Lacedimonians*, who many hundred Yeres past, most pollitiquelye and famouslye governed their commonwealth with Lawe unwrytten. Whereas amonge the Athenians, the wrytten Lawe bare all the swaye. These things beinge soe trewe that without anye Reason or good Authoritye yt cannot be denyed, then we are further to consider whether the Tytle to the Crowne can bee examined, tryed, and ordered by this common Custome or noe: yf wee say yt maye, then must wee prove by some Record that yt hath byn soe used;

used: otherwise wee onely say yt, and prove nothing at all. For nothing can bee said by Lawe to be subject to any Custome, unlesse the same hath byn used accordinglye, and by force of the same Custome. I am well assured that you ar not able to prove the usage and practize therof, by anye Record in anye of the Kings Courts. Yea I will further saye unto you, and allso prove it, That there ys not any Rule, generall or special, of the common Law of this Realm, which ye eyther have shewed, or can shewe, that hath byn taken by anye just construction to extend unto, or bend the Kinge or his Crowne: I will not denye but that to declare and set forth the prerogative and jurisdiction of the Kinge, ye may shewe many rules of the Lawe, but to bend him (as I have said) ye can shewe none : you say in your Bookes that yt is a maxime in Lawe most manifest, that whosoever ys borne out of *England*, and of a Father and Mother not being of the obedience of the Kinge of *England*, cannot be capable to inherite any thing in this Realme, which rule being general without any Wordes of Exception, you allso say, must needes extend unto the Crowne. What you meane by your Lawe, I knowe not, but yf you meane, as I thinke you doe, the common Lawe, I am sure there there is no such Maxime in the common Lawe of this Realme of *England*, as hereafter I shall manifestlye prove : But yf yt were for Arguments sake admitted at thys tyme, That yt be a maxime or general rule of the common Lawe : Yet to say that yt ys so generall as that no exception be taken against the same rule, you shewe your self eyther verye ignorant, or els verye careless of your credytt, for yt

doth playnelye appeare by the *Statute* of 25 *Ed.* 3 being a declaration of that rule of the Lawe, which I suppose you meane, terming yt a maxime, That that rule extendeth not to the Kinges Children; whereby it must evidentlie appeare that yt extendeth not generally to all, and yf yt extendeth not to bynd the Kinges Children in respect of anye Inherytaunce discended unto them from anye of their Ancestors, yt is an Argument *à fortiori* that yt doth not extend to bynd the Kinge or his Crowne. And for a full and shorte Answer to your Authorities set forth in your margenal notes 5. *e.* 3. 13. *e.* 3. 3. *e.* 3. 42. *e.* 3. fol. 2. 22 *H.* 6. 42. 11 *H.* 4. 2. 24, *Littleton. ca. vill.* yt maye playnely appeare unto all that will read and peruse those Bookes, that there is none of them all that doth as much, as with a peece of a Word, or by anye Collour or Shadowe, seeme to intend the Tytle of the Crowne, by that your supposed general rule, or maxime. For everye one of the said cases argued and noted in the said Booke, ar onelye concerning the disabilitie of an Alien borne, and not a denizen, to demaund anie lands by the Lawes of the realme, by anie suite or action onelye as a Subject under the Kinge, and nothinge touching anie disabilitie to be laid to the Kinge himself, or to his Subjects. Is there anie Controversie about the Tytle of the Crowne, by reason of anie such disabilitie touched in anye of the said Bookes? No verelye, not one word I dare boldlye saye, as yt may manifestly appear to them that will read and peruse those Books; and yet you ar not ashamed to note them as sufficient Authority for the maintenance of your evil purpose and intent: But as you would seeme to understand that
your

your tytle and disabilitie ys a general maxime of the Lawe, so me thinke th you should not be ignorant, that it is allsoe as general, yea a more general rule and maxime, that no maxime or rule of the Lawe can extend to bynd the Kinge or the Crowne, unles the same be specyallye mentioned therein as maye appeare by divers principles, and rules of the Lawe, which be as generall, as ys your said supposed Maxime: And yet the Kinge nor the Crowne is by any of them bound.

As this for Example, yt is very playne that the rule by the Tenaunte of the Curtesye ys general without anye exception at all, and yet the same byndeth not the Crowne, neyther doth extend to give anye benifitte to him that shall marrye the Quene: As yt was playnely agreed by all the Lawyers of this Realme, when King *Philippe* was married to Quene *Marye*, although for the more suertye and plaine Declaration of King *P.* and *Q. M.* and of all the states of this Realme, yt was enacted That King *P.* should not clayme any tytle to be Tenaunt by the Courtesye, yt is allso a general rule, That yf a man dye seised of anye landes in fee simple without issue Male, having dyvers daughters, the land shall be equallye divided betwene the Daughters: which Rule the learned Men in the Lawes of this Realme agreed uppon in the Lyef of the late noble Prince *Edward* the VI. and also everye reasonable Man knoweth by usage to take no place in the succession of the Realme; For the eldest enjoyeth all as though she were issue male, likewise yt is a general Rule, That the Wief after the decease of her Husband shall be endowed and have the third Parte of the best Possession of her Husband: And yet yt is verye clere that anye Quene shall not have the

the third Parte of the Landes belonging to the Crowne, as appeareth in 3. e. 3. 11, *prerogativa Regis* 21. e. 3. 9. 28 H. 6. and divers other bookes. Besides that the Rule of *possessio fratris* being general, neyther hath byn or can be stretched to the inheritance of the Crowne. For the Brother of the halfe Blood shall inherite, as may appeare by Justice Doile, as may be proved by King *Ethelred*, Brother and successor to King *Edwarde* the *Martir*; and by King *Edwarde* the confessor, Brother to King *Edmonde*; and divers others who succeeded in the Crowne of *Englande*, being but of the half Bloudd. As was also the late Queen *Marie*, and ys at this present her noble Sister, who both in all Recordes of our Lawe, wherein the severall rights and tytles to the Crowne are pleaded, as by dayly experience, as well in the Exchequer, as also in other Courts, is manifest, doe make their Conveighance as heires in Bloudd the one to the other: which, yf they were common, or private Persons, they could not be allowed in Law. These as yt ys well knownen, being of the half Bloudd the one to the other, that is to wytt, begotten both by one Father, but of severall Mothers borne.

Yt is also a general Rule in the Lawe, that the Executors shall have the goodes and chattells of the Testator, and not the Heyre: But yet yt is otherwise in the case of the Crown. For there the Successor shall have them, and not the Executors, as appeareth in *Gascoignes Case* 7 H. 4. yt is likewise a general Rule, that a Man attaynted of Felloshe, or Treason, his Heire, through the Corruption of Bloudd, without pardon and restitution of Bloudd, ys unable to take anye landes by

by discent : which Rule, although yt be generall, yet it extendeth not to the discent, or succession of the Crown. Although the same Attaynder be by Acte of Parliament, as may appeare by the Attaynture of *Rychard Duke of Yorke*, and King *Edwarde the IV.* his Sonne, and also of King *Henrye the VII.* whoe where attaynted by Acte of Parliament, and never restored, and yet no disability thereby unto *Edwarde the IV.* nor unto *Henrye the VII.* to receave the Crowne by lawfull succession.

BUT to this you will seeme to answer in your said Booke sayinge, That *Henrye the seventh* came to the Crowne notwithstanding his attayndure, as cast upon him, that disability ceaseth, wherein you confesse directlye that the attainture ys no disability at all to the Succession of the Crowne : For although no disability can be alledged in him that hath the Crowne in Possession; yet if there were anye disability in him before to receive and take the same by lawfull Succession, then must you say that he was not lawfull Kinge but an Usurper. And therefore in confessing *K. H. 7.* to be a lawfull Kinge, for that the Crowne was lawfully cast upon him, you confesse directly therby that before he was Kinge in Possession, there was no disability in him to take the Crowne by lawfull Succession (his attayndure notwithstanding) which is as much as I would wish you to graunte. But in conclusion understandinge your self, that this your Reason cannot mainteyne your intent, you goe about an other way to helpe your self, making a difference in the lawe, betwene the case of attaynder and torrein byrth out of the Kings allegiance, saying that
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in the case of attaynder, Necessitie doth enforce the Succession of the Crowne upon the partie attaynted; for otherwise you saie the Crowne shall not discend to anye; but upon the birth out of the Kings allegiance you say yt is otherwise, and for prouf therof you put a case of *John Style* being seized of Lands, and having Issue *A* and *B*: *A* is attaynted in the lyef of the Father, and after *John Style* dyeth, *A* living unrestored, nowe the land shall not discend eyther to *A* or *B*, but shall goe to the Lord of the Fee by way of Escheate: otherwise yt had byn, ye say, yf, *A* had byn borne beyond the Sea, *John Stile* breaking his allegiance to the Kinge, and after *John Stile* cometh againe into the Realme and hath Issue *B*, and dyeth; for now (ye say) that *B*. shall inherite his Fathers lands yf the Crowne had byn holden of anye Man to whome yt might have escheated, as in your Case of *John Stile* the land dyd, then peradventure there had byn some affinitie betwene the said Case, and the Case of the Crowne. But there is no such matter.

BESIDES that, you must consider that the Kinge cometh to the Crowne not onelye by discent, but also and cheifly by Succession as unto a Corporation: And therefore you might easlye have seene a difference betwene the Kings Majestie and *John Style* a Subject, and allso of Landes holden of a Lord above, and the Crowne holden of none earthly Lorde, but of God Almightye onelye. But yet for Argumente sake I would fayne knowe where you find your difference, and what authoritie you can shew, for the prouf thereof; you have made no generall notes of Authorities, and therefore unless
you

yow also say that yow are *Pithagoras*, I will not beleue your difference: well I am assured that I can shewe yow good Authoritye to the contrarye, and that there ys no difference in your Cases: peruse I pray 22 *H.6.* and there may yow see the Oppinion of Justice *Newton* that there ys no difference in your Cases, but that in both your Cases the Land shall escheate vnto the Lord; and *Prysot* being then a Councillor with the partye that claymed the Land by a discent where the eldest Sonne was borne beyond the Seas, durst not abide in Lawe, vpon the Tytle. This Authoritye is against your Difference, and this Authoritie, I am well assured, ys better then anye yow have shewed to prove your Difference. But yf we shall admyt your Difference according to Lawe, yet your Cases wherevnto yow applye your Difference, are nothing like, as I said before. But to proceede on in the prouf of our purpose. As yt doth appeare that neyther the King nor his Crowne are bound by these generall rules, which before I have shewed, so do I likewise say of all the residue of the general Rules and Maximes of the Lawe, being in a manner infinite. But to returne againe to our onely supposed Maxim which yow make so generall concerning the stabilitye of Personnes borne beyond the Sea, yt ys verye playne that yt was neuer taken to extend to the Crowne of this Realme of *England*, as yt may appeare by Kinge *Stephen* and King *Henrye* the seacond who were both Straungers and French-men, and borne out of the Kinges allegiaunce, and neyther were they Kinges Children immediate, nor their Parents of the allegiaunce, and yet they have byn alwayes accompted lawful Kinges of *Englande*, nor their Tytle was

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by anie Man at anye tyme defaced or controlled for anye such consideration or exception of forreine Birthe. And yt ys a world to se howe you would shifte your hands from the said Kinge *Henrye*: you saie he came not to the Crowne, by order of law, but by capitulation, for asmuch as his Mother by whome he conveighed his Tytle was then lyvinge: well, admitt that he came to the Crowne by capitulation, during his Mothers lief, yet this doth not prove, that he was disabled to receive the Crowne, but rather proveth his abilitie; and although I did allsoe admitt that he did not take the Crowne by order of lawe during his Mothers lyef; yet after her death no man hath hitherto doubted, but that he was Kinge by lawfull succession, and not against the lawe and customes of the Realme: for soe might yow putt a doubt in all the Kinges of this Realme, that ever governed since, and drive us to seeke heyres in *Scotland*, or ells where, which thing wee suppose yow are overwise to goe about.

BESIDES this, I have hard some of the Adversaries for further helpe of their intention in this Matter, saye that Kinge *Henrye* the second was a Quenes sonne, and soe Kinge by the right of common lawe.

TREW LIE I knowe that he was an Empresse Child, but noe Quene of *England*; For although *Maude* the Empresse his Mother had a good Tytle to the Crowne, and to bee a Quene of *Englande*; yet was she never in Possession, but kept from the same by King *Stephen*: and therefore King *Henrye* the seacond cannot justlye be said to be a Quene of *Englandes* Child, nor yet anye Kinges Child; vn

les.



les yow would intend the Kinges Children, by the words of *Enfants de Roy* c. 6. to be Children of a farther degree, and descended from the right lyne of the Kinge. Soe you might saye trewlye that he was the Childe of King *Henry* the first, wherein your said Rule herein is fowlye foyled. And therefore you would sayne, for the mayntenance of your pretended Maxime, catche some hold vpon *Arthure*, sonne of G. one of the sonnes of the said *Henry* the 2. yow saye then like a good and jollye Antiquarye, that he was rejected from the Crowne, because he was borne out of the Realme.

That he was borne out of the Realme, yt ys most trewe, But that he was rejected from the Crowne for that Cause, yt ys verye false, neyther have yow anie Authoritie to prove your vaine Oppinion in this point. For yt is to be proved by the Chronicles of this Realme, that King *Richarde* the first, vncle to the said *Arthure*, taking his Journey to Ierusalem, declared the said *Arthure*, as we have before shewed, to be Heire apparant unto the Crowne, by reason of forreine byrthe. And although King *John* did vsurpe; aswell vppon King *Richarde* he first his Brother, and allsoe vppon the said King *Arthure* his Nephewe; yet yt is no prouf that he was rejected, because he was borne out of the Realme; yf yow could prove that, then had yow shewed some Reason, and president to prove your intent, wheras hitherto yow have shewed none at all, nor I am well assured shall never be able to shewe.

THUS may yow see, good Reader, that neyther this pretended maxime of the lawe set forth by the Adversaries, nor a great number more, as general as this (which before I have shewed) can by

any reasonable meanes be stretched to bind the Crowne of *Englande*. These Reasons and Authorities may for this tyme suffice to prove that the Crowne of this Realme is not subject to the Rules and Principles of the common lawe, neyther can be ruled or tryed by the same, which thing being trewe, all the Objections of the Adversaries, made against the Tytle of the Q. of *Scotts* to the succession of the Crowne of this Realme, are fully answered, and thereby wiped away. Yet for further Arguments sake, and to the end wee might have all matters sifted to the uttermost, and thereby all things made plaine, lett us for this tyme somewhat yield unto the Adversaries, admitting that the Tytle of the Crowne of this Realme were to be ruled, tryed and examined, according to the rules and principles of the common lawe; and then let vs consider, and examine further whether there be anie Rule of the common lawe, or ells anie Statute that by good and just construction can seme to impugne the Tytle of the said *Marye* the Q. of *Scotts* or no; for touching her lineal discent from K. *Henrye* the seaventh, and by his eldest Daughter, as wee have shewed, there is no Man so impudent to denye what ys there then to be objected amonge all the Rules, Maximes, and Judgments of the common lawe of this Realme; onely one Rule as a generall Maxime ys objected against her, and yet the same Rule ys soe vntreuly sett forth, that I cannot well agree that yt is anye Maxime of the common lawe of this Realme. Your pretended Maxime ys, Whosoever ys borne out of the Realme of *Englande*, and of Father and Mother not being under the obedience of the King of *Englande*, cannot be
capable

capable to inherite anye thinge within *England*, which Rule ys nothing trewe, but altogether fayles: For everye Straunger and alien is able to purchase the Inheritance of anie lands within this Realme, as yt may appeare in 7 & 9 *E. 4.* and also in 11 & 14 *H. 4.* And althoughe the same purchase ys accounted by some Men to be to the use of the Kinge; yet untill such Tyme as the King be intituled to the same by matter of Recorde, the Inheritance remayneth in the Alien by the Oppinion of all Men. And soe ys a verye Alien capable of inheritance within this Realme; and then must yt needes fall out verye playnely that your generall Maxime wherevppon yow have bragged, and talked soe much, ys nowe become no Rule in the common lawe of this Realme; and yf yt be soe, then have you vttered very many Wordes to small purpose.

BUT yet let vs see farther, Whether there be any Rule or Maxime of the common lawe that may seme anye thing like to the Rule, wherevppon anie matter may be gathered against the Tytle of the said *Q. Marye* Quene of *Scottes*: There is one Rule like in Wordes vnto that which hath byn alleadged by the Adversaries, which Rule ys set forth and declared by a Statute made *Anno 25 E. 3.* which Statute, recyting the Doubte that then was, Whether Infants bo rne out of the Allegiaunce of the King of *Englande*, should be able to demaunde anye heritage within the same or no? yt was by the same Statute ordeyned, That all Inheritors, which after that tyme should be borne out of the Allegiaunce of the Kinge, whose Father and Mother at the Tyme of their birth were of the Faith and Allegiaunce
of

of the Kinge of *Englande*, should have and enjoye the same benifitte to have the heritage within the said Allegiaunce, as other Heires should; wherevpon yt is to be gathered, vpon the due and just construction of the Statute, and hath byn heretofore commonlye taken, that the common lawe was alwayes, and ys yett, that no person borne out of the Allegiaunce of the Kinge, whose Father and Mother were out of the same Allegiaunce, should be able to demaund anye Inheritance within the same Allegiaunce, as Heire to anye Person: which Rule I take to be that supposed Maxime, which the Adversaries doe meane. But, as I have said before, everye Alien and Straunger borne, may have, and take Inheritance as a Purchasor, and if anye Alien do marrye a woman Inheritrix, the Inheritance thereby is both in the Alien, and alsoe in his Wief, and the Alien thereby a Purchasor. No Man doubteth but that a denizen may purchase landes to his owne vse, but to inherite landes as Heire to anie Person within the Allegiaunce of *England*, he can by no meanes: Soe that yt seemeth verye playne, That the said Rule byndeth also Denizens, and doth also extend to discent of Inheritance, and not to the havinge of anye landes by purchase. Now will wee consider whether this Rule can by any reasonable Construction extend unto the Ladye *Marye* Quene of *Scottes*. For, and concerning her Tytle to the Crowne of *Englande*, yt hath byn said bye the Adversaries, that she was borne in *Scotland*, which Realme ys out of the Allegiaunce of *Englande*, Father ther and Mother not being of the same Allegiaunce, Therefore by the said Rule she is; not inheritable to the Crowne of this Realme: al-
though

thoughe I might verye well and orderlye at the beginning denye the consequent of your Argument whether yt bee trewe or no ; yet at this tyme we will examine the Antecedent, and then consider vppon the Consequente: That the Quene of *Scottes* was borne in *Scotlande*, yt must needs be granted. But that she ys out of the Allegiaunce of *Englande*, though the said Quene and all her Subjects will stoutlye affirme the same, yet there ys a great Number of Men in *Englande*, both learned and other that be of that Opinion, being ledd and perswaded therevnto by dyvers Histories, Regesters, and Recordes of homage remayning in the Treasorye of this Realme, wherein ys mentioned that the Kinge of *Scottes* hath acknowledged the Kinge of *Englande* to be the superior Lord of the Realme of *Scotlande*, and havinge done homage and fealtye for the same, which thing being trewe, notwithstanding yt hath byn commonlye deemed by all *Englishmen* that by the lawes of this Realme, *Scotlande* must needs be accompted to be within the Allegiaunce of *Englande*, and althoughe since the Tyme of Kinge *Henrye* the 6. none of the Kings of *Scotlande*, have done the said service vnto the Kinges of *Englande* ; yet that is no reason in our lawe to say that therefore the Realme of *Scotland* at the tyme of the birth of the said Ladye *Marye* Quene of *Scotlande*, being in the 34 Yere of the Reigne of our late soveraigne Lord King *H. 8.* was out of the Allegiaunce of the Kinge of *Englande*. For the lawe of this Realme ys verye plaine, That thoughe the tenaunte do not his service vnto the Lord, yet hath not the Lorde thereby lost his seignorye, for the lande remayneth still within his fee and seignorye,

rye, that notwithstanding. But peradventure some will object and saye that by that reason, *France* should likewise be said to be within the Allegiaunce of *Englande*, forasmuch as the Possession of the Crowne of *Fraunce* hath byn, within little more then an hundredth Yeres nowe last past, lawfully vested in the Kinge of *Englande*, whose right and tytle shall remayne. To that Objection yt may be answered, That there ys a great difference between the right and tytle, which the Kinges of *Englande* clayme to the Crowne and right of *Fraunce*, and the right and tytle which they clayme by the Realme of *Scotlande*, although yt be trewe that the Kinge of *Englande* hath byn lawfullye possessed of the Crowne of *Fraunce*; yet during such tyme as they by vsurpation of others are dispossessed of the Realme of *Fraunce*, the same Realme by no meanes can be said to be within the Allegiaunce; especiallye considering how that sithence the tyme of vsurpation, the People of *Fraunce* have fully forsaken their Allegiaunce and Subjection, which they did owe vnto the Kinge of *Englande*, and have given and submitted themselves under the Obedience and Allegiaunce of the Vsurper. But as for the Realme of *Scotlande*, yt ys otherwise, For the tytle which the Kinge of *Englande* have claymed vnto the Realme of *Scotlande*, ys not in the Possession of the Lande and Crowne of *Scotlande*, but onely vnto the service of homage and fealtye for the same. And although the Kinges of *Scotlande* sithence the tyme of Kinge *Henrys* the sixte, have intermitted to doe the said homage and fealtye vnto the Kinges of *Englande*; yet for all that the Kinges of *Scotlande* cannot by reason or lawe be called Vsurpers. And
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this may you see, gentle reader, by the Oppinion of all indifferent Men not ledd by Affection, That the Realme of *Scotlande* hath byn and ys yet within the Allegiaunce of the Kings of *Englande*, and soe ys the antecedent or first proposition false, and yet that maketh no prouf that the Realme of *Fraunce* should likewise now be said to be within the Allegiaunce of the Kings of *Englande*, by the reason of the manifest and apparaunte difference before shewed. But what if your antecedent were trewe, and that we did agree both with the said Quene of *Scotts* and her Subjects, and also with yow that *Scotlande* were out of the Allegiaunce of *England*; yet that ys verie plaine that your consequent and conclusion cannot be trewe by anye meanes. And that principally from three causes, wherof one ys, For that neyther the Kinge nor the Crowne not being specially mentioned within the said Rule or pretended Maxime, cann be intended to be within the meaning of the said Maxime, as wee have before sufficiently proved by a number of such like general Rules, and Maximes of Lawe. Another cause ys for that the Crowne cannot be taken within the wordes of the said supposed Maxime: And that ys for two respectes; one ys, because the rule doth onely disable Aliens to demaunde any Inheritaunce within the Allegiaunce of *Englande*, which rule cannot be stretched to the demaunde of the Crowne of *England*, which ys not within the Allegiaunce of *Englande*, but ys the very allegiaunce yfself.

As for a like Example yt ys trewe, That all the Landes within the Kings Dominion, are holden of the Kinge, cyther mediate, or immediate, and yet ys not trewe that the Crowne by which onely the

Kinge hath his Dominion can be said to be holden of the Kinge. For without this Crowne there can be neyther Kinge nor Allegiaunce; and so long as the Crowne resteth onely in demaund, not being vested in anye Person, there ys no allegiaunce at all. For that the Crowne cannot be said to be within the Allegiaunce of *Englande*, and therefore not within the words of the said Maxime. The tytle of the Crowne ys also one of the wordes, and meaning of the said Maxime in another respect, and that ys, because the rule dothe onely disable an Alien to demaunde landes, by'discent as Heire, viz. yt doth not extend to landes purchased by an Alien, as wee have before sufficiently proved: And then cannot the rule extend vnto the Crowne, being a thing incorporate, the right wherof doth not discende accordinge to the private course of private Inheritance but goeth by succession as other Corporations doe. No Man doubteth but that a Prior Alien being no denizon, might alwaies in tyme of Peace demaund Landes in right of his Corporation: And soe likewise a Deane as person being Alien and no denizon, might demaund landes in respect of his Corporation, notwithstanding the said supposed rule or Maxime, as may appeare by dyvers Booke-cales, as also by the Statute made in the tyme of Kinge *Richarde* the second: And although the Crowne hath allwaies gone accordinge to the common course of a descent; yet doth yt not properlye discend, but succeade: And that ys the reason of the Lawe, That although the Kinge be more favoured in all his doings then a common person shall be, yet cannot the Kinge by lawe avoide his graunts by lettres Patents by reason of his nonage, as other Infants

may

may doe; but shall alwaies be said to be of full Age in respect of his Crowne, even as a Parson, Vicar, or Deane or anye other Person incorporate shall be, which cannot by anie meanes be said in lawe to be within Age in respect to their Corporations, although the Corporation be but one Yere old. Beside that the Kinge cannot avoide by lawe anye Lettres Patents made by anie Vsurper of the Crowne, unless yt be by Acte of Parliament, no more then other Persons incorporate can avoide the graunts made by one that was wrongfullye in their places and roomes, whereas in discent of Inheritance the Lawe ys otherwise; for that the Heire may avoide all the Actes and States made by the disseisor or abater, or anie other person whose estate ys by the lawe defeated, wherby yt playnely appeareth, that the Kinge ys incorporate vnto the Crowne, and hath the same properlye by succession and not by discent onelye. And that ys likewise an other reason to prove that the Kinge and the Crowne, can neither be said to be within the words, nor yet within the meaning of the said generall rule or maxime. The third and most principall cause of all ys, for that in the said Statute, whervpon the said rule or maxim is gathered, the Children discendants and discented of the Blood Royall by the wordes of *Infants de Roye*, are expresly excepted out of the supposed rule or maxime, which words the Adversaries do much abuse, in restreynge and construing them to extend to the first degree onely, wheras the same wordes may beare a more ample and larger Interpretation, and that for 3 Causes and Considerations. First because the civill laweyers by these words (*Liberi*) which the word *Infants* be-

ing the vsuall and originall worde of the Statute written in the French Tongue, countervailerth, do comprehend, by proper and peculiar significations, onelye the Children of the first degree; but other discentes in the lawe, saying that he which ys manumissed or made free, shall not commence anye Action against the Patron or manumissor without Licence, wherein not onely the first degree, but also the others are conteyned. The like is of the lawe of the twelve tables which sayeth, That the first place and roome of Succession after the death of the Parents that dye intestate, ys due to the Children, which succession apperteyneth aswell to degrees removed, as to the first; yea in all causes favorable (as ours ys) this word sonne, *Filius*, conteyneth the Nephewe, though not by the propertie of the voice or speche, yet by interpretation admittable in all such thinges as the lawe disposeth of. As touching this word *Infant* in french, wee say that yt reacheth to other discentents, aswell as the first degree, wherein I doe referre me to those as be experte in the same Tongue, wee have no other worde for the barrennesse of our *English* Tongue, to counterpoies the said *French* worde *Infants*, or the *Latine* worde *Liberi*: Therefore doe wee supplye yt aswell as wee can by this worde *Children*. The *Spaniard* also vseth this worde (*Infant*) in this ample force when they call the next Heire to be Heire apparant, *Infant* of *Spaine*, even as the late deceased Lord *Charles* of *Austrick* was called, his Father and Grandfather then living. Yf then this original worde of the Statute declaring the said rule, may aptlie and properlie appertain to the discentents, whic should wee streyne yt to the first degree onelye,

onelye, otherwise then the nature of the worde or reason will beare? For I suppose verely yt will be verely hard for the Adversaries to give anye good and substantiall reason, whic to make aduersitie in the cases. But towching the contrarye, there ar good and probable considerations which shall serve us for this cause. As for that the Grandfathers call their Nephewes, as by a more plaucible name, not onelye their children, but their sonnes also. And for that the sonne being deceased, the Grandfather surviving, not onely the Grandfathers affection, but also such right tytle and interest as the sonne hath by the lawe and proximitie of bloudd, growe and drawe all to the Nephewe, who representeth and supplieth the Fathers place, the Father and the Sonne being compted in Person, and in Flesh, but as one. Whye shall then the bare and naked consideration of the externall and accedentall place of the birth onely sever and sundre such an entyre inward and naturall conjunction? Add thereunto the manie and great absurdities that may therof springe and ensue: For dyvers of the Kinges of this Realme aswell before the tyme of Kinge *Edwarde* the 3. (in whose tyme this Statute was made) as after him, gave their Daughters out to forreine and sometymes meane Princes in marriage, which they would never so oftentymes have done, yf they had thought that while they went about to advaunce and set forthe their Issue, their doinges should have tended to the disheritinge of them from soe great, large and noble a Realme as this ys, which might have chaunced yf the Daughter having a Sonne or a Daughter, had dyed living their Father; for there should this supposed

posed maxime have byn a barre to their Children to succede their Grandfather. This absurditie would have byn more notable yf that had chaunced about the tyme of Kinge *Henrye* the 2. or this Kinge *Edwarde*, or Kinge *Henrye* the first and 6. when the possession of the Crowne of this Realme were soe ample enlarged in other Countries beyond the Seas, and yet never soe notable as yt might have byn hereafter in our fresh memorye, and remembrance, yf anie such thing had chaunced, as by possibilitie mighte have chaunced, by the late marriage of Kinge *Philippe* and Quene *Marie*: For admitting their Daughter, married to a forreine Prince, should have dyed before them, she leaving her sonne, surviving the Grandfather and Grandmother, they having noe other issue soe nigh in degree, then would this late framed maxime have excluded the Sonne lamentable, and unnaturally from the Succession of the Crowne of *England*, and allso the said sonne from the inheritance of the Realme of *Spain* and both *Cicills*, with the appurtenaunce of the Dukedome of *Millaine* and other lands, and Dominions in *Lumbardie* and *Italie*, as allso from the Dukedome of *Brahant*, *Luxenbrige*, *Gildars*, *Zutphan*, *Artoys*, *Hollande*, *Zelande*, *Flaunders*, *Burgundie*, *Frizlande*, from *Namures*, and from the new found land, parcell of the Kingdome of *Spaine*, which are (unlesse I be deceived) more ample and by dowble and triple then all the Countries nowe rehearsed. All the which said Countries, by the foresaid marriage, should have byn devoluted from the said sonne, yf anye such Child hadd byn borne, yf eyther the Sonne by the force of this jollye newe found maxime, had byn excluded

excluded from the Crowne of *Englande*, or the said Crowne from the inheritance of the said Countries: Were there any reason to be yelded for the maintenance of this supposed maxime in that case? or mighte there possiblie rise any commoditie to the Realme, by observing this rigorous pretended rule that should by one hundred parte countervaille this importable losse and spoile of the Crowne, and of the lawfull inheritor of the same. But perchaunce for the avoiding of this exception lyMITTED vnto the bloudd royal, some will say that the same was but a priuelidge graunted vnto the Kinges Children, not in respect of the Succession of the Crowne, but of other landes discending to them from their Ancestors, which allthough wee might very well admytt, and allowe; yet cann yt not be denyed, but that the same priuelidge was graunted vnto the Kinges Children, and other discendants of the bloudd royall, by reason of the dignitie and worthines of the Crowne which the Kinge their Father did enjoye, and the great reverence which the lawe giveth of duetye thereunto. And therefore yf yow would goe about to restraine and withdrawe from the Crowne that priuelidge which the lawe giveth to the Kinges Children for the Crownes sake, yow should doe therein contrarye to all reason, and against the rules of the arte of reasoninge that sayeth, *Propter quod unumquodque est tale, illud magis est tale.* Besides that, I would fayne knowe by what reason a Man may saye, that they of the Kinges bloud, borne out of the allegiaunce of *Englande*, may inherite Landes within this Realme as heires unto their Ancestors, not being able to inherite the Crowne? Trewlie in my opinion

yt were against all reason ; but on the contrarye syde, the verye force of reason must drive us to confesse the lyke, yea more great and ample benefitt of the lawe in the succession of the Crowne: for the Royal bloudd whersoever yt be found, will be taken as a precious and singuler Jewel, and will carrye with yt his worthy Estimation and Honour with the People, and where yt ys due, his right withall. By the civill lawe the right of inheritance of private persons ys hemmed within the boundes of the tenth degree: The Bloudd Royal runneth a farther race, as soe farre as yt may be found, wherewith the great and mightie Conquerors are glad, and fayne to joyne, ever fearing the weakness of their sword, in respect of the great Force and Strength of the same Bloudd: For this cause was *Henry* the 1 (for his learning called *Bewclarke*) glad to consociate himself with the ancient Royall Bloudd of the *Saxons*, which continewng in the princely Succession from worthe *Alured*, was cutt off by the death of good Kinge *Edwarde*, and by the marryage with *Mythaldas*, being in the fourth degree in lineall discent to the said Kinge *Edwarde*. was revived, and remitted From this *Edwarde*, the Quene of *Scottes* (as we have before shewed) taketh her auncient and noble Pedigree: This then and dyvers other reasons and causes moe may be alledged for the weighing and setting forth of the true meaninge and intent of the said lawe. Wee stande vppon the interpretation of the common lawe recyted and declared by the said Statute, and howe shall wee better understand what the lawe ys therein, then by the use and practize of the said lawe? for the best interpretation of the lawe ys custome

custome: But the Realme before the Statute admitt-
 ted to the Crowne, not onelye the Kinges Children
 and others of the first degree, but also of a farther
 degree, and such as were borne plainelye out of
 the allegiance; the aforesaid vse and practize appear-
 ed as well before as since the tyme of the conqueste.
 Amongst others, Kinge *Edwarde* the confessor being
 destitute of a lawfull Heir within the Realme, sent
 into *Hungarye* for *Edwarde* his Nephewe sur-
 named the vtlawe, sonne to King *Edwarde* cal-
 led *Ironsyde*, after many yeres of his exile, to re-
 turne into *Englande*, to the intent the said outlawe
 should inheryte this Realme. Which neverthelesse
 came not to effecte, by reason the said outlawe dyed
 before Kinge *Edwarde* his vncle: After whose death
 the said *Edwarde* appointed *Edgar Athelstane*
 sonne of the said outlawe, being his next Cozen
 and Heir as he was of right to the Crowne of *En-
 glande*; and for that the said *Edgar* was but of
 younge yeares, and not hable to take vpon him
 soe great a government, the said King committed
 the protection aswell of the said younge Prince, as
 allso of the Realme to *Herrolde* Earle of Kent,
 vntill such tyme as the said *Edgar* had attayned
 to perfect age, and to be able to weld the state of
 a Kinge. Which *Herrolde* nevertheless, contrary
 to the trust put in him, supplaunted the said young
 Prince of the Kingdome, and put the Crowne on
 his owne head. By this yt ys apparaunte that for-
 reine birthe was not accompted before the tyme of
 the conquest a iust cause to repell and reject anie
 Man, (being of next proximitie of Bloudd) from
 the tytle of the Crowne. And though the said
Edwarde the Confessor's will and purpose tooke

no effect (as he desired and the lawe craved) yet the like succession tooke place effectuouly in Kinge *Stephen* and Kinge *Henrye* the second, as wee have alreadye declared. Neyther will the Adversaries shifte of forreynors borne of Fathers and Mothers which be not of the Kinges Allegiaunce, helpe him, for so much as this clause of the said Statute ys not to be applyed to the Kinges Children, but to others, as yt appeareth by the same Statute. And these two Kinges *Stephen* and *Henrye* the 2. as they were borne in a forrein place; soe their Fathers and Mothers were not of the Kinges Allegiaunce, but meere straungers and aliens. And howe notorious a vaine thinge yt ys that the Adversaries would perswade vs, that the said Kinge *Henrye* the 2. came in rather by force and composition then by proximitie and nereness of bloudd, I leave yt to everye man to consider, that hath any feelinge in the discourse of the Histories of this Realme. The composition did procure him rest and quietnes for that tyme with a good and sure hope of continuance also after the death of Kinge *Stephen*, and soe yt followed indeede. But there grew to him no more right therby then was due before to him, for he was trewe Heyre to the Crowne, as appeareth by *Stephen* his Adversaries confession. *Henrye* the 1. marryed his Daughter *Mawde* to the Emperour, by whome he had no Children, and noe doubt in case she had had Children by the Emperour, they should have byn Heires by succession to the Crowne of *Englande*. After whose death she returned to her Father, yet did Kinge *Henrye* cause all the Nobilitie by an expresse Oath to imbrace her after his death as Quene, and after her, her Children. Not long

long after she was married to *Jeffrey Plantagenet* a French man borne, Earle of *Anjou*, who begat of her this *Henry* the 2. being in *France*, where-uppon the said Kinge did revive and renewe the said Oath of Allegiaunce, aswell to her, as to her sonne after her. With the like perswasion the Adversarye busieth himself and his reader touching *Artbure* Duke of *Brytanye*, nephew to Kinge *Richard* the first, as though forsothe he were justly excluded by Kinge *Richard*, his Vncle, because he was a forreiner borne. Yf he had said that he was excluded by reason the Vncle ought to be preferred before the Nephewe though yt should have byn a fallse allegation and playne against the rules of the lawes of this land, as may well appeare amonge other thinges, by *Richard* the 2. who succeeded his Grandfather *Edward* the 3. which Kinge had dyvers worthie and noble Vncles, who neyther for lack of knowledge could be ignoraunte of the righte, neyther for lacke of Friends, Courage, or Power, be inforced to forbear to challenge their Tytle and Interest, yet should he have had some countenance of reason and probabilitie, bycause many Arguments, and the Authority of many notable and learned Civilians doe concurre for the Vncles right before the Nephewe. But to make the place of the Nativitie of the Inheritor to a Kingdome, a sufficient barre against the right of the bloudd, yt seemeth to have but a weake and slender hold and ground. And in our case yt is a most vnshure and fallse ground, seeing yt is most trewe, that Kinge *Richard* the 1. (as we said) declared the said *Artbure* (borne in *Britayne* and not sonne of a Kinge, but of his Brother *Jeffrey* Duke of *Britayne*) Heyre apparant,

his Vncle *John* yet living. And for suche a one ys he taken in all our Histories, and for such a one did all the world take him after the death of the said Kinge *Richarde*. Neyther was Kinge *John* taken for other then for an Vsurper for excluding him. And after for a Murtherer for imprisoning him and after privily making him awaye. For the which Fact, the French King seized upon all the Countreies in *Fraunce* belonging to the Kinge of *Englande*, as forfeited to him being the cheif Lord. By this outrageous dede of King *John*, we lost *Normandye* withall, and our possibilitie of all *Brytaine*, the right and tytle of *Brytaine* being due to the said *Arthure*, and his Heires by his Mother *Constance*. And thoughe the said King *John* by the practize and ambition of Quene *Eliane* his Mother, and by the speciall procurement of *Hubbert* then Archbishoppe of *Canterburye*, and of some other factious Persons in *Englande*, prevented the said *Arthure* his Nephewe, as it was easye for him to doe, having gotten into his hands all his Brother *Richarde* his Treasure, betydes manie other Rents then in *Englande*, and the said *Arthure* being an Infaunt and remayning beyond the Sea, in the custodie of the said *Constance*; yet of this fact being against all Justice, aswell the said Archbishop as allso manye of other, did after most earnestlye repent, considering the cruel and vnjust putting to death of the said *Arthure* procured, and after some Authors, committed by the said *John* himself. Which most toule and shamefull Act the said *John* needed not to have committed, yf by forrein birth the said *Arthure* had byn barred to inherite the Crowne of *Englande*. And much lesse

lesse to imprison the most innocent Ladye *Elia nor*, sister to the said *Art hure* in *Bristowe* Castell, where she most miserablye ended her lief; yf that gay *Maxime* would have served to exclude these two Children because they were straungers borne beyond the Seas. Yea, yt appeareth in other doings allso of the said Tyme, and by the storye of the said *John*, That the byrthe out of the Allegiaunce of *Englande* by Father and Mother forrein, was not taken for a sufficient repulse and rejection to the right of the Crowne. For the Barons of *Englande* being then at discention with the Kinge, and renouncinge their Allegiaunce to him, received *Lewes* the eldest Sonne of *Philippe* the French Kinge to be their Kinge, in the right of *Blaunche* his wief, which was a Straunger borne, albeyt the lawful neece of the said *Richarde*, and Daughte to *Alfonce* Kinge of *Castile*, begotten on the Bodye of *Elia nor* his wief, one of the Daughters of Kinge *Henry* the 2. Sister to Kinge *Richarde*, and Kinge *John*. Which story I alledge onelye to this purpose, therbye to gather the Oppinion of the tyme, that forrein byrth was then thought no barre in the tytle of the Crowne. For how could *Lewes* of *Fraunce* pretend tytle to the Crowne in the righte of the said *Blaunche* his wief borne in *Spayne*? Theis Examples, I suppose, are sufficient to satiffye everye man that ys not obstinatelye wedded to his owne fond fancies, and frivolous imaginations, or otherwise worse depraved, for a good sure and substantiall interpretation of the common Lawe. And yt were not altogether from the purpose, to consider and weighe here with what and how grevous plagues this Realme hath byn afflicted

afflicted and scourged by reason of wrongfull and vsurped Tytles. I will not revive by odious rehearfall the greatnes and nomber of the same plagues, aswell otherwise, as especiallye by the contention of the noble houses of *Yorke* and *Lancaster*, seeing yt ys soe fortunatelie, and almost within Man's remembrance, extincte and buried. I will nowe put the gentle reader in remembrance of those onely, by whose vsurping tytles we are now presently in hand. And to begin with the most ancient, what became of *Harrolde*, I pray yow, that by bryberye and helpe of *Kinred*, vsurped the Crowne against the foresaid young *Edgar*, who, as I have said, and all the old Monuments of the Historiographers do planely testifie, was the trewe and lawfull Heire, could he, think yow, enjoy his ambitious vsurping one whole Yere? No surely. For ere the first Yere of his vsurped reigne torned about, he was spoyled and turned out of his Crowne, and allsoe of his lyef: yea his vsurpation occasioned the conquest of the whole Realme by *William* Duke of *Normandye*, bastarde sonne to *Robert* the sixt Duke of the same. And may wee thinke all safe and sound nowe from the like daunger, yf wee should tread the said wrong steps which *Harrolde*, forsaking the right and high way to lawe and justice? What shall I nowe speake of the cruell civill warres betwene King *Stephen*, and King *Henry* the 2. which warres arose by meanes that Kinge *Henry* was unjustly kept from the Crowne due to his Mother *Maude*, and to him afterwards? the pittyfull reigne of the said King *John*, who doth not lament? with the lamentable losse of all *Normandye*, *Aquitayne*, and the possibi-

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litie of the Dukedome of *Brytaine*, and with the losse of our goodlye possessions in *Fraunce*, wherof the Crowne of *England* was robbed and spoyled by the vnlawfull vsurping of them against his Nephewe *Arthure*. Well, let vs leave this greuous and lothsome remembraunces, and let vs yet seeke yf we may find any later interpretation eyther of the said Statute, or rather of the common lawe, for our purpose: And how the great providence and goodness of God, who hath (if the aforesaid Examples would not serve), provided of late soe good, soe sure, soe apte, and meere interpretation for our cause, as any reasonable Hart can desyre, the interpretation directly toucheth our cause, which I meane by the marriage of the Lady *Margaret*, eldest Daughter to King *Henrye* the 7. vnto *James* the 4. King of *Scotts*, and by the Oppinion of the most prudente Prince in bestow his Daughter into *Scotlande*. A matter sufficient inoughe to overthrow eall those cavellinge inventions of the Adversaries. For what tyme King *James* the 4. sent his imbassadors to King *Henrye* the 7. to obteyne his good will to espouse his said Daughter vnto him, there were of his Councell not ignorant of the lawes and customes of this Realme, that dyd not well like vppon the said marriage, sayeing yt might soe fall out, that the right and tyle of the Crowne might be devolued to the Ladye *Margaret* and her Children, and the Realme thereby might be subject to *Scotlande*: To the which the prudent and wise King answered, That in case anie such revolution should happen, yt would be nothing prejudiciall to *England*, for *England*, as the cheif and principall parte of the
 Ile,

He, should drawe *Scotlande* to yt, as yt did *Normandy* from the tyme of the conquest. Which answere was wonderfully well liked of all the councell, and soe consequentlye the marriage tooke effect, as appeareth, by *Polidore* the historyographer of this Realme, and such a one as wrote the Acts of the tyme by the instruction of the Kinge himself. I saye then this worthy wife *Solomon*, foreseinge that the said revolution might happen, was an Interpretor, with his prudent and sage Councell, for our cause, for else we neede not to reason of anye such subjection to *Scotlande*, yf the Children of the said Lady *Margaret* might not lawfully inherite the Crowne of *Englande*. And to her Husband wee could not be subject, havinge himself no right by this marryage to the tytle of the Crowne of this Realme. Whervppon I may very well inferre, that the said newe Maxime of these Men, wherby they would rule and overrule the succession of Princes, was not knowne to the said wife Kinge, nor to anye of his Councell: or yf yt were, yet was yt not taken to extend to his bloud Royall borne in *Scotlande*. And so on everye side, the tytle of *Marye* is assured. So that nowe by this that hath byn sayd yt may easily appeare, by what light and slender consideration the adversarye hath gone about to confine the words *Infants* or *Children* to the first degree onelye. Of the like weight ys the other consideration, imagininge and surmisinge this Statute to be made, because the King had soe manye occasions to be soe oft over Sea, with his spouse then Queene; as though divers Kinges before him vsed not often to passe over the Seas, as though this were a personal

Statute

Statute made of speciall purpose, and not to be taken for a declaration of the common lawe, which to say, ys most repugnant, and contrary to the letter of the said Statute, or as though his Children allso did not very often repayre to forreine Countries. As John of *Gaunt* Duke of *Lancaster* that married *Peter* the Kinge of *Castile* his eldest Daughter, by whose right he claymed the Crowne of *Castile*. As his Brother *Edmonde* Earle of *Cambridge*, which married the youngest Daughter. As *Lyonel* Duke of *Clarence* that married at *Myllayne*, *Violenta* Daughter and Heyre to *Galiacius* Duke of *Myllayne*: But especiallye Prince *Edwarde* which most victoriouslye tooke in battaile *John* the French Kinge, and brought him into *Englande* as prisoner to the great triumph and rejoycinge of the Realme, whose eldest Sonne *Edwarde* that dyed shortly after, was borne beyond the Seas in *Gascoigne*: and his other Sonne *Richarde* that succeded his Grandfather, was borne at *Burdeaux*. As this noble Kinge *Edwardes* Sonnes married with Forreynors, soe did they give out their Daughters in marriage to forreine Princes. As the Duke of *Lancaster* gave his Daughter *Philippe* to the Kinge of *Portingale*, and his Daughter *Katherine* to the Kinge of *Spayne*, and his neece *Johan* Daughter to his Sonne Earle of *Somerset*, was married to the Kinge of *Scotts*. *Johan* Daughter to his Brother *Thomas* of *Woodstocke* Duke of *Gloucester* was Quene of *Spayne*, and his other Daughter *Marye* Dutches of *Brytaine*. Now by this Man's interpretation, none of the Issue of these noble Women could have enjoyed the Crowne of *Englande* when yt had fallen to them, though they had byn of the neereſt

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bloudd Royall, after the death of their Ancestors, which surely had byn against the auncient Presidents and Examples that wee have declared, and against the common lawe, which must not be thought by this Statute in anye thing to be taken away, but onelye declared, and against all good reason allso. For as wee would have thought this Realme greatly injured yf yt had byn defrauded of *Spayne*, or any of the foresaid Countries being devoluted to the same by the foresaid marryages (as wee thinke our selues at this day injured for the withholding of *France*) so the Issue of those noble Women might and would have thought themselves hardlye and injuriously delt withall, yf anye such case had happened. Neyther such freuolous interpretations, and gloses as this Man now frameth and maketh vppon the Statute, would then have served, nor nowe will serve. But of all other his freuolous and foolish gessinge vppon the clause of the Statute for *Infants du Roy*, there ys one most fonde of all. For he would make vs beleve (such ys the Mans skill) That this Statute touching *Infants du Roy*, was made for the great doubt, more in them then in anye other Person, touchinge their inheritance to their Auncestors. For being then a *Maxime* (sayth) in the lawe, that none could inherite to his Ancestors beinge not of Father and Mother vnder the obedience of the Kinge, seing the Kinge himself could not be vnder obedyence, yt playnelye semeth that the Kinges Children were of farre worse condicion then others, and quite excluded: And therefore he sayth, this Statute was not to give them anie other priuiledge, but to make them equall with others. And that therefore this Statute touchinge the Kinges Children, ys rather in the superficiall

ficiall parte of the worde, then in effecte. Nowe
 amonge other thinges he sayeth, as wee have said
 before, That this worde *Infant de Roy* in this
 Statute mentioned, must be taken for the Children
 in the first degree, which he seemeth to proue by
 a Note taken out of Mr. *Rastall*. But to this wee
 answere, That this Man sweetelye dreameth, when
 he imagineth this fond and fantastickall exposition.
 And that he sheweth himself a verye *Infante* in
 lawe and reason. For this was no Maxime, or at
 lest not soe certen before the making of this Sta-
 tute, which giveth a newe right to the Kinges Chil-
 dren, nor answereth anye doubt towchinge them
 and their inheritance; but sayth that the lawe of
 the Crowne of *Englande* ys, and alwayes hath
 byn, that the Kinges Children, shall be able to
 inheryte landes of their Ancestres wheresoeuer they
 be borne. All the doubt was for other Persons, as
 appeareth by the tenor of the Statute, whether by
 the common lawe, they being borne out of the
 Allegiaunce, were not inheritable to their Ancestors:
 And yt appeareth that the adversary ys thrust to the
 hard wall, when he ys dryven to catch hold vppon a
 poore marginall Note of Mr. *Rastall*, of the Kinges
 Children, and not of the Kinges Childrens Chil-
 dren, which yet nothing at all serveth his purpose
 touchinge this Statute. But he, or the Printer, or
 whosoever he be, as he draweth of the text many
 other Notes of the matter therein comprised, soe
 vppon these French wordes *Les Infants de Roy*,
 he noted in the Mergent the Kinges Children;
 But howe farre that word reacheth, he sayth neyther
 more nor lesse, neyther ys yt any thinge prejudiciall
 to the tytle or right, whether the said word *Infants*

ought to be taken strictly for the first degree, or farther enlarged: For yf this Statute touch onely the succession of the Kinges Children to their Ancestors for other inheritaunce, and not for the Crowne, as most Men take yt, and asyt may be (as wee have said) verye well taken and allowed: Then dothe this supposed Maxime of forrein borne, that semeth to be gathered out of this Statute, nothinge annoye or hinder the Quene of *Scotts* tytle to the Crowne, as not thereto perteyninge. On the other syde, yf by the inherytaunce of the Kinges Children, the Crowne allsoe ys ment, yet neyther may we inforce the rule of forrein birth vppon the Kinges Children, which ar by expresse wordes of the Statute excepted, neyther inforce the worde *Infants* to the first degree onelye, for such reasons and examples, presidents, and other proufes largelye before by us set forthe to the contrarye: seinge that the right of the Crowne fallinge vppon them, they may be well called the Kinges Children, or at least the Children of the Children. There ys allso another cause why though this Statute reache to the Crowne, and may and ought to be expounded of the same, the said Quene ys out of the retch of the said Statute. For the said Statute cannot be vnderstoode of any person borne in *Scotlande*, or *Wales*, but onelye of Personnes borne beyond the Seas, out of the Allegiaunce of the Kinges of *Englande*; which ys to witt *Fraunce*, *Flaunders*, and such like. For *Englande*, *Scotlande* and *Wales*, are all within our Terrytorye, and not devided by any Sea, and all old records of the lawe concerninge service to be done in those two Countrys, have these words *Infra quatuor Maribus*,
ria,

ria, within the fower Seas, which must needs be vnderstoode in *Scotlande* and *Wales*, aswell as in *England*, bycause they be all within one Continent compassed with fower Seas; and likewise by many auncient Statutes of this Realme wrytten in *Norman French*, which have these words, *deins le quatuor Mares*, that ys within the fower Seas: Now concerninge the Statute, the tytle of the same ys of those that are borne beyond the Seas. The doubte moved in the bodye of the said Statute, ys allso of Children borne beyond the Sea, and out of the Allegiaunce, with dyvers other Braunches of the said Statute tendinge that waye, wherby yt seemeth that no parte of the Statute towcheth those that are borne in *Wales* and *Scotlande*. And albeit at this tyme, and before in the reign of Kinge *Edwarde* the first, *Wales* was fully reduced and vnited to the proper dominion of *Englande*; yet was yt subjected before to the Crowne and Kingdome of *England*, as to the Lord and Sovereigne, aswell as the *Scotts*. Wherefore yf this Statute had byn made before the tyme of the said *Edwarde* the first, yt seemeth that yt could not have byn stretched to *Wales*, no more then yt cann nowe to *Scotlande*. I doe not therfore a little marvaile that ever this man for pure shame could find in his Hart so childishlye to wrangle vpon the word *Infants*, and soe openlye to detecte, deprave, and corrupt the Actes of Parliament, and the common lawe. And thus may yow see, gentle reader, that nothing can be gathered eyther out of the said supposed generall rule or maxime, or of anye other rule or principell of the Lawe, that by anye good or reasonable construction can seeme to impugne the
the

the tytle of the said Ladye *Marye* now Quene of *Scotts*, of and to the Crowne of this Realme of *Englande*, as ys aforesaid. We ar now therefore last of all to consider, whether there be any Statute or Acte of Parliament, that doth seeme eyther to take awaye or prejudice the tytle of the said Ladye *Marye*: And bycause towchinge the aforesaid mentioned Statute of the 25 yere of King *Edwarde* the third, being onely a declaration of the common lawe, we have alreadye sufficiently answered, we will passe yt over, and consider on the Statute of 28 and 36 of Kinge *Henrye* the 8. beinge onely the shette Anchore of all the Adversaries, whether there be any matter therein coneyned, or dependinge vppon the same, that cann by any meanes distroy or hurt the tytle of the said Ladye *Marye* Quene of *Scotts*, to the Succession of the Crowne of *Englande*. Yt doth appeare by the said Statute of 28 of *Henrye* the 8, that there was authoritie given by the same, to declare lymitt, appoint, and assure the succession of the Crowne by his lettres patents, or by his last will signed by his owne hand: Yt appeareth also by the Statute made 36 of the said Kinge, that yt was by the same enacted, that the Crowne of this Realme should goe and be to the said Kinge and to the Heyres of his bodye lawfullye begotten, that ys to say, vnto his highnes first Sonne betwene him and the Lady *Jane* then his wief begotten, And for defalt of such Issue, then vnto the Ladye *Marye* his Daughter, and to the heires of her Boddye: And for default of such Issue, to the Ladye *Elizabeth* and to the heires of her Body lawfully begotten: And for default

fault of such Issue, vnto such personne or personnes in remainder or reversion, as should please the said Kinge *Henrye* the 8. and accordinge to such estate and after such manner, order, and condition as should be expresse, declared, made and lymitted in his lettres pattents or by his last will in wrytinge, signed with his owne hand. By vertue of which saide Acte of Parliament, the aduersaries doe alledge that the said late Kinge after by his last will in wrytinge signed with his owne hand, did ordeyne, and appoint, That yf yt happened the said Prince *Edwarde*, Ladye *Marye*, and Ladye *Elizabeth* to dye without Issue of their boddyes lawfully begotten; Then the Crowne of this Realme of *Englande* should goe and remayne vnto the heyres of the boddy of the said *Francis* his neece, and the eldest daughter of the French Queene: And for defaulte of such Issue, to the heyres of the boddy of the said *Eliaenor* his neece second daughter to the French Queene, lawfully begotten: And yf yt happen the said Ladye *Eliaenor* to dye without Issue of her Boddy lawfully begotten, to remaine and come to the next rightfull heires. Wherevppon the aduersaries doe inferre, that the succession of the Crowne of *Englande* ought to goe to the Children of the Ladye *Francis* and to their heyres accordinge to the said supposed Will of our late sovereigne Lord Kinge *Henrye* the 8. and not vnto the Ladye *Marye* Quene of *Scotts* that nowe ys. To this yt may on the behalf of the said Ladye *Marye* amonge other things be answered that King *Henrye* the 8. never signed the pretenced Will with his owne hand, and therefore

therefore the pretended Will cannot be anie whitt prejudiciall to the said Queene: Yt ys replied by the Adversaries, first, That there were dyvers coppies of the Will signed with his owne hand, one of the which it is likely the originall Will, commonly called Kinge *Henrye* the eight his Will, was taken and drawne out of them, that there be great and vehement perswasions and presumptions that for the fatherlye love he bare to the common wealth, and for the avoydinge of the vncerteintye of the Succession, he well liked of, and accepted the Authoritye given him by Parliament, and signed with his owne hand the said originall Will, which had the said lymitation and assignation of the Crowne. And these presumptions ar the more inforced, for that he had no cause why he should bear anye affection to the said Quene of Scotts, or to the Ladye *Lineaux*, and had at all no cause to be greved or offended with his Sister the French Quenes Children: But to put the matter quite out of all doubte and ambiguitye, yt appeareth, sayeth he, that there were eleaven wytnesses purposely called by the Kinge, who were present at the signinge of the said Will, and subscribed their Names to the same. Yea, the chefest Lords of the Councell were made and appointed Executors of the said Will, and they and others had great Legaceys given them in the said Will, which were paid, and other thinges comprised in the Will accomplished: Accordinglye there passed also Purchase and lettres patents betwene Kinge *Edwarde* the sixte, and the Executors of the said Will and others, in execution and performaunce of the same. Finally, the said Testament

Part. 85.
See ante.
21

Testament was recorded in the Chancerye, wherefore they affirme that there ought no manner of doubt to move anye Man to the contrarye, and that cyther we must graunt this Will to be signed with his hand, or that he made no Will at all: Both must be graunted, or both denyed. Yf anye will denye yt, in case he be one of the Witnesles, he shall impugne his owne testimonie: Yf he be one of the Executors, he shall overthrowe the foundation of all his doings in procuringe the said Will to be inrolled and set forth vnder the great Seale: And soe by their doubleness they shall make themselves no meete Witnesles. Nowe a man cannot lightelye imagine howe anye other besides these two kindes of Witnesles (for some of them, and of the Executors, were such as commonlye waighted vppon the Kings person) may impugne this Will, and prove that the Kinge did not signe the same: But yf any such impugne the Will, yt would be considered howe manye they were, and what they are, and yt will be verye hard to prove *Negatiuum factum*. But yt is evident, say they, that there was neuer anie such lawfull prouit against the said Will produced: For if yt had byn, yt would have byn published in the Starre Chamber, preached at Powles Crosse, declared by Acte of Parliament, proclaymed in everye quarter of the realme, yea admittinge (say they) the verye coppies spoken of, beinge wrytten and signed, or at least interlyned with his owne hand, may be said a sufficient signinge with his owne hand. For feing the scope and finall purpose of the said Statute was to have the Succession provided for and ascerteinted, which ys

sufficiently don in the said Will, and seinge his
 owne hand was required but onelye for eschuinge
 evill and sinister dealinge, wherof there ys no
 suspicion in this Will to be gathered: what mat-
 ter in the World, or what difference ysthere when
 the Kinge accomplished and fullfilled this gracious
 Acte, which was looked for at his handes, whe-
 ther he signed the Will with his owne hand or
 not? Yf yt be objected that the Kinge was bound
 and obliged to a certen precise order which he
 could in no wise shift, but that the Acte without
 yt must perish and be of no valewe; Then say they,
 wee vndoe whole Parliaments aswell in Quene
Maries tyme, as allso in Kinge *Henrye* the 8. tyme.
 In Quene *Maryes* tyme, because she omytted the
 style appointed by Parliament Anno 35 *Henrye*.
 8. In Kinge *Henryes* tyme, by reason there was
 a Statute that the Kinges Royall assent may be gi-
 ven to anye Acte of Parliament by his lettres pa-
 tents signed with his owne hand, though he were
 not there Personally, and yet did the said Kinge
 supplye his consent full oft, by the stamp onely:
 this yet notwithstandinge the said Parliaments for
 the Omission of those formes soe exactlye and
 preciselye ar not destroyed. After this sort in ef-
 fect have the Adversaries replied for the defence
 of the said pretended Will. To this wee will
 make our reioynder and say first, That our princi-
 pall matter ys not to joyne an Issue, whether the
 said Kinge made and ordeyned anye sufficient
 Will or no, we leave that to an other tyme:
 But whether he made anye Testament in such
 order and forme as the Statute required? Where-
 fore yf yt be defectiue in the said forme, as we
 have

have affirmed yt to bee, were yt otherwise never soe perfect and good, though yt were exemplified by the great Scale, and recorded in the Chauncerye, and taken commonly for his Will and soe accomplished, yt ys nothing to the principall question. Yt resteth then for vs to consider the waighte of the Adversaries presumptions, whereby they would inforce a probabilitye, that the Testament had the aforesaid requisighte forme: Yet first yt is to be considered what presumptions, and of what force and nomber, do occure to avoide and frustrate the Adversaries presumptions, and all other like. Wee say then that there occurre manye likelihoodes, many presumptions, many great and waightye reasons to make vs to thinke, That as the Kinge had never anye good and iust cause to enterpryse such an Acte as ys pretended, so likewise he did enterpryse no such Acte in deede. I denye not, but there was such Authoritye given him; neyther do I denye but that he might also in some honorable sort have practized the same to the honor of the Realme, and good contentation of the said Realme: But that he had eyther cause, or did enterpryse the said Authoritye in such straunge and dishonourable sort as ys pretended, I playnely denye: For beinge at the tyme of this pretended Will furnished and adorneed which Issue the late Kinge *Edwarde*, and the Ladye *Marye*, and the Ladye *Elizabeth* the Quenes Majestye that nowe ys, their state and succession being allso by Acte of Parliament established: what neede or likelihoode was there, for the King to practize such newe devises, as never did (I suppose) anye Kinge in this Realme before, and

fewe in anye other besides? And when they were practized, commonlye had infortunate and lamentable successe. What likelihoode was there for him to practize such devises (especially in his latter dayes, when wisdome, the love of God, and his Realme, should have byn most rype in him) that were likely to stirre vpp a greater fyre of grevous contention and wofull distruction in *England*, then ever did the factions of the redd Rose and the white latelye (by the incorporation and vnion of the howses of *Torke* and *Lancaster*, in the person of his Father, through the marryage of Ladye *Elizabeth* eldest Daughter to *Edward* the 4.) most happely extinguished and buryed? And though yt might be thought or said that there would be no such cause of feare, by reason of the matter passed by Parliament; yet could not he be ignorant, that neyther Parliaments made for *Henry* the 4. nor Parliaments of Attendance made against his Father, could eyther prejudice his Fathers right, or relieve other against such as pretended most right and tytle: And as he could not be ignorant therof, soe yt ys not to be thought that he would abuse the great confidence put vppon him by the Parliament, and disinherite without cause apparaunt, the next Royal bloud, and thinke all thinges sure by the Acte of Parliament, the little force wherof, against the right inheritor he had (to his Fathers and his owne ample benifit) soe largely and soe latelye scene and felt. And yet yf he mynded at anye tyme to prejudice the Ladye *Marye* Quene of *Scotts*, of all tymes he would not have done yt then, when all his

care

care was by all possible meanes to contrive and compasse a marryage betwene his Sonne *Edward*, and the said Ladye, and Quene. Surely he was to wife himself, and furnished with to wife Councillors, to take such an homely way to procure and purchase the said marryage by. And least of all can wee say he attempted that dishonorable disherison, for any speciall inclination or favor he bare vnto the *French* Quene his Sisters Children: for there have byn of his neere and privy Councill that have reported that the Kinge had never anye great liking of the marryage of his Sister with the Duke of *Suffolke*, who marryed her self privily in *Fraunce*, after openly in *England*, and, as yt was said, had his pardon for that privy marryage in writing: howsoever this matter goeth, certen yt is that yf this pretended Will be trewe, he transformed and transposed the Crowne not onely from the Quene of *Scotts*, from the Ladye *Lineaux*, and their Issues; but even from the Lady *Frauncis* and *Eliaenor* also, Daughters to the French Quene, which ys a thing in manner incredible, and therfore nothing likely. I must nowe (gentle reader) put the in mynd of two other most pregnant and notable coniectures and presumptions, for amonge all other inconveniencies and absurdities that doe and may accompany this rash and vndvised acte, by this pretended Will inconsiderately mainteined, yt is principally to be noted, that this Acte giveth apparant and just Occasion of perpetuall disherison of the tytle and style of *Fraunce*, incorporated and vnited to the Crowne of this Realme. For wherby doe or have the *French* men hether to excluded

Art. 2.
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excluded the King of this Realme, clayming the Crowne of *Fraunce* by the tytle of *Edwarde* the 3. fallinge vppon him by right of his mother, other by a politique and civill lawe of their owne, that barreth the female, from the right of the Crowne? And what doth this pretended Acte of K. *H.* 8. but justifie and strengthen their quarrell, and overthrowe the foundation and Bullwarke whereby we mayneteyne our foresaid tytle and clayme? Yt wee may by our municipale lawe exclude the said Queene of *Scotts*, being called to the Crowne by the tytle of generall herytage; then ys their municipale lawe likewise good and effectuell, and consequently, wee doe and have made all this while an vnjust and wrongfull clayme to the Crowne of *Fraunce*. But nowe to goe somewhat farther in this matter, or rather to come neerer home, and to the quicke of the matter, wee say as there was some apparaunt matter and good cause whye the Kinge should the xxviiiith yere of his Reigne thinke vpon some lymitation and appointment of the Crowne (King *Edwarde* as yet vnborne) soe after he was borne, and that the Tytle and Interest of the reuercion of the Crowne after him was the xxvth yere by Parliament confirmed to Quene *Marye* and her Sister *Elizabeth*; yt is not to be thought that he would afterwards jeoperde soe great a matter by Testament and Will, which may easilye be altered, and counterfeyted, and least of all make such assignation of the Crowne as ys nowe pretended. For being a Prince of such wisdome and experience, he could not be ignoraunt that this was the next and readiest waye

waye to put the state, at least of both his Daughters, to great perill and vtter disinheritaunce. For the Kinges example and boldnes in interrupting and cutting away so many braunches of the neere-
 rest syde and lyne, might soone breede in aspiring and ambitious harts, a bold and wicked attempte, the way being so fayre brought in and prepared to their handes by the kinge himself, and other natures soe prone and ready to followe ill pretences, and to climbe high by colorable meanes, or rather to spoyle and deprive the said Daughters of their right of the Crowne, that should discend and fall vpon them, and to convey the same to the heires of the said Ladye *Fraunces*. And did not, I pray yow, the drifte and devise fall out even to the vtter exclusion of the late Quene *Marye*, and her sister *Elizabeth*, yf God had not of his mercye most graciously and wonderfully repressed and overthrowne the same? these reasons then, and presumptions, may seeme well able and sufficient, to bear downe, to break downe and overthrowe the weake presumptions of the Adversaries, grounded vpon vncerten and meere surmises, gesses, and coniectures: As amonge others, that the Kinge was offended with the Quene of *Scotts*, and the Lady *Lineaux*, which is not trewe. And as for the Lady *Lineaux*, yt hath no manner of probabilitie, as yt hath not indeede in the said Quene. And yf yt had, yet ys yt as probable and much more probable, that the Kinge would have, especially at that tyme, for such cause as wee have declared, suppressed the same displeasure. Graunting now that there were some such displeasure, was yt honourable eyther
 for

for the King or Realme, or was yt (thinke yow) ever thought by the Parliament that they should disinherite them for everye light displeasure? And yf, as the Adversaries confesse, the Kinge had no cause to be offended with the French Quenes Children, whie did he disinherite the Lady *Fraunces* and Lady *Elia*nor also? Their other presumption which they ground vppon, *viz.* the avoidinge of the incerteintye of the Succession, by reason of his Will, ys of small force, and rather turneth against them: for yt is so farre of, that by this meanes the Succession ys made more certen and sure; that contraryewise yt ys subject to more vncerteintye and lesse suertye then before: For wheras the right and clayme to the Crowne hange vppon the determination and certen course of the common Lawe, vppon the certen and assured tryall of the right and vnspotted blood, yea vppon the verye lawe of Nature: whereby many inconveniencies, many troubles daungers and seditions are in all Countries publicquely avoided; soe nowe dependinge vppon the Statute onely, yt ys as easlye by an other Statute to be infringed and overthrowne, and dependinge vppon a Testament, yt ys subject to many Corruptions, sinister dealinges, cavillations, yea and just overthrowes by the disabilitye of the Testators witnessses, or the legatorye himselfe: Or for lack of due order to be obserued, or by the death of the witnessses vnexamined; and for manye other like considerations. The monuments of all antiquitye, the memorye of all ages, and of our owne age and daylye experience, can tell and shewe vs many lamentable examples of many a good and lawfull Testament,

by

by vntrewe and craftye means, by false and vnsuborned wytnesses, by the covetous dealinge and maintenance of such as be in Authority quite vndone, and overthrowne. This presumption then of the Adversaries, rather maketh vs, and minis-treth unto vs good occasion to thinke the Kinge would not hazard the wayghte and importance of such a matter, to rest vppon the validitie or invaliditie of a bare Testament onelye. By this that wee have said, we may probablie gather that the Kinge had no cause to adventure foe great an enterpryse by a bare Will and Testament, yow shall allso heare what wee thinke, whether he did ever attempt or enterpryse any such thinge. Yt ys well knowne the Kinge was not wont lightly to overslippe the Occupation of any great commoditie presentlye offered. And yet this notwithstandinge havinge given to him by Acte of Parliament the ordering and disposing of all Chaunterys and Colledges, he did never or very litle, practize and execute the same Authoritye. Shall wee thinke (vnlesse full and sufficient necessarye prouf necessarily enforce credytt) that the Kinge) to his no present commoditie and advantage but yet to his great dishonour, and to the great oblique of his Subiects and other Countrys, to the notable disherison of foe manye of the next Royall bloud) did vse any such Authoritye as ys surmised? Again, yf he had made any such Assignment, who doubteth but (as he conditioned in the said pretended Will with his noble Daughters, to marrye with his Councells advice, eyther ellse not to enjoye the benifytt of the Succession) he would have tyed the heires of the said Ladye

Fraunces, and *Eliaenor* to the same condition? Furthermore I am driven to thinke that there passed no such lymitation by the said Kings Will, by reason there ys not, nor was this many Yeres any Originall Coppye thereof, nor any authentickall Recorde, in the Chauncery or elsewhere, to be shewed in *Englande*, as the Adversaryes themselves doe confesse. And in the Coppies that be spread abroad, the Wytnesles pretended to be present at the signing of the said Will, be such for the meanenes of theyre estate on the one syde, and for the greatness and wayghte of the Cause on the other syde, as seeme not most sufficient for such a case; the importaunce of the cause (being no lesse then the disherison of soe manye heires of the Crowne, aswell from the one Sister as from the other) required or craved some one or other of the privie Councell, or some one honorable or notable Person to have byn present at the said signinge, or that some notification should have byn made afterwarde to such Personnes by the Kinge himself, or at least before some Notarye and authentickall Person for the better strengtheninge the said Will. Here ys nowe farther to be considered (that seinge the interest of the Crowne ys become a playne testamentarye matter and clayme, and dependeth vppon a last Will) when, and before what ordynarye, this Will was exhibited, allowed and approved: Where and of whome tooke the Executors their Othe, for the true performaunce of the same? who committed vnto them the Administraction of the Kinges goods and chattles? when, and to whome have they brought in the Inventorye of the same? who examined

ained the Will vpon their Othe, for the tenor
 and truth of the said testament; namely, vpon
 the signement of the Kinges hand, wherein
 consisteth the weight of no lesse then of the
 Crowne yt self? where, or in what spirituall or
 temporall Court, may one fynd their depositions?
 But yt were a very hard thinge to fynd that (that
 as farre as men can learne) neuer was. And yet
 yf the matter were soe plaine, so good, and so
 found, as these men beare vs in hand; yf the Ori-
 ginall restament had byn such as might have byd-
 den the Touchstone the tryall, the lighte, and
 the sight of the World; whye did not they that
 enjoye most commodytie thereby, procure the
 same to be made manifest? Or whye ys not the
 same remayninge as a perpetuall and publique mo-
 nument, whereby might be decided soe dangerous
 a cause, which nowe restinge onely vpon the
 vsuall reporte of Men, onely vpon probable con-
 jecture, will drawe with the determination the
 effusion of soe much *English* bloudde, as the like
 Cause in forrein Countries, or here in former
 ages: Neyther is the supposall of the suppressing
 of the said Testament ymagined to be in the
 tyme of Queene *Marye* of anye moment. At
 what tyme, forsooth, our Adversaries which yma-
 gined the Estate, because they sawe they could not
 doe yt justlye, or handle the matter craftelye,
 but that every man would perceiue yt, and in
 tyme disclose their Juglinge, therefore like polli-
 tique Men they rooke an vnorderlye meane, and
 destroyed the whole recorde. As though yt were
 a pollicye or any shewe of wisdom at all to frus-
 trate the Record when as they were not able to
 roote

roote out the remembrance thereof from the
 myndes of Men, especially seinge the Nature of
 People is to imagine more of a matter suppressed,
 then the Record yt self, yf yt were extante, would
 perhappes have warrentted. No, they could not
 but conceive that the doing therof might well re-
 semble the like Attempt although in an vnlike
 cause, I meane the frustreyting of a Parliament
 Rolle, by which was declared a Bastardy of Kinge
Edwarde the 4. his Children. The alteration
 wherof, though yt were done vpon great dis-
 cretion and iust cause, in asmuch as the said re-
 cord containede soe shamefull matter, accomplished
 at the Commandment of the usurper *Richarde*,
 (whome for fear Men durst not them denye) yet
 the meanes then vsed to suppress the memorye
 therof, hath byn also the meanes to convey the
 same to the knowledge of all posteritye. Wee
 may not therefore then imagine that they vsed
 this devise or pollicye as ys pretended, when as
 there was a more assured and readye waye voide of
 all suspicion, knowne vnto them; namely, to have
 caused the said Statutes and Will by equall au-
 thoritie of Parliament to be repealed and defaced.
 For easy was yt for them by Parliament to have
 adnulled so much of the same Testament as con-
 cerned the supposed Succession. Especiall ye in
 the entraunce of Quene *Maryes* raigne, wheras
 the Howses of *Suffolk* and *Northumberlande* sus-
 teyned such a blemishe; when, as was layd open to
 all Mens consideration, the fearfull successe of ty-
 ing the Succession of the Crowne to an assignati-
 on by Testament; when, as was made manifest to
 the World their impatience in awaytinge the tyme
 lymitted

lymitted by K. H. 8. his Testament, in asmuch as they had prevented the same by King *Edwardes* Testament or Patent, then under cloake of Religion, not only seeking to supplant the present interressed Prince, but also the dis-inheritance of her Majestie whom *God* hath since provided to be a carefull and lovinge Nurse to his Church and a support to all the distressed faithfull. Wherefore sithe the said supposed Testament was never made, as ys pretended, or at least remayneth not of Recorde to be seene, yt shal be expedient for the dutyfull Subject not to give credit to that, or to eyther parte, to settle in himself a determination of so high importance and doubtfull matter, leaving the same to the providence of the Almightye, by whom *Reges regunt*, rest dutifull to the present state, without curiouse serch of future Accidents in the misteries of Princes, calling to minde, that who soe searcheth a Clowde may be stricken, as the proverbe ys, with a Thunderbolt.

F I N I S.



limited by M. H. 8. his Testament in a much as
 they had procured the same by King Edward
 Testament for Patent their under cloak of Re-
 ligion, not only taking to support the present in-
 terested Prince, but also the disinheritance of
 her Catholic whom God hath since provided to
 be a careful and loyal Prince to his Church
 and a support to all the distressed faithful. When
 some time the said supposed Testament was never
 made, as is pretended, or at least tenaciousness
 of Records to be seen, yet had be exhibited for
 the dearest Subject not to give credit to that
 or to other parts to let it be a detraction
 from the true Protestant religion, and
 leaving the way open to the A-
 narchy, by which the
 the present time without a shadow of
 the Accidents in the history of France, calling
 to mind, that who be a true Catholic may
 be distinguished from a Protestant.

FH
MUSEVM
BRITANNICVM



15. No 26.

15. 1/2 26.
Ans: 16. 1/2 26. 27.
the ground of: 16. 1/2 26. 27.

obj. of ^{the} *to the cause of Suffolk*
anw! 22. to 32.

Bacon.

Introductory matter. 33.

Percent of crown drift from that of
0" here ditto, 41. to 70.

20. & 35. of Gen. O. & his will
under those & other copies.

under these & other circumstances of the
to J. P. sufficient to settle the
pay to the will of J. P. One to the
and

obj^{to} the legitimacy of
the house of Suffolk.